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Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

1/25/82

SENATE COMMITTEE ON LABOR AND COMMERCE

COMMITTEE MEETING SCHEDULE

TUESDAY Feb. 1 1:30 pm	DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT: Commissioner Dick Lyon will present an overview of the department
THURSDAY Feb. 3 1:30 pm	DEPARTMENT OF LABOR: Commissioner James Robison will present an overview of the department

LABOR AND COMMERCE COMMITTEE MEETINGS WILL BE CONDUCTED IN THE BELTZ ROOM, 211 CAPITOL. IF YOU HAVE ANY QUESTIONS, PLEASE CONTACT CHAIRMAN DICK ELIASON'S OFFICE (465-4916). THANK YOU.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

on calendar

MEMORANDUM

12 March, 1982

TO: Senator Anderson
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The Senate Labor and Commerce Committee announces a committee meeting to be held on Wednesday, March 17th, 1982, at 3:00pm in the Butrovich Room. The agenda for the meeting will be as follows:

CS SB 630 "An act relating to the legislative oversight procedures relating to state agencies, boards, and commissions under AS 08.03 and AS44.66; and providing for an effective date."

SB 648 "An act relating to workers' compensation coverage of certain persons providing community work service."

SB 801 "An act relating to financial statements of corporations."

SB 831 "An act relating to insurance policies and contracts."

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

1 March, 1982

TO: Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce

The Senate Labor and Commerce Committee announces a committee meeting to be held on March 10th, 1982, at 3:00pm in the Butrovich Room. The agenda for the meeting will be as follows:

SB 669: "An act relating to compensation of public officers and employees; and providing for an effective date."

SB 670: "An act making supplemental appropriations to the Office of the Governor and to the Legislative Affairs Agency to pay additional costs of salaries and benefits for fiscal year 1982; and providing for an effective date."

SB 771: "An act excluding restaurants from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

SB 783: "An act adding multifamily dwellings as a qualified project for purposes of the Alaska Industrial Development Authority; and providing for an effective date."

SB 798: "An act relating to title insurance rating organizations; and providing for an effective date."

SB 801: "An act relating to financial statements of corporations."

(Action on SB 757 "An act continuing the Board of Welding Examiners; and providing for an effective date" had been deferred from the February 26th committee meeting and will be taken up at the March 10 hearing.)

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

3 March 1982

TO: Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman

The Senate Labor and Commerce Committee announces a committee meeting to be held on March 15th, 1982, at 3:00pm in the Butrovich Room. The agenda for the meeting will be as follows:

SB 606: "An act relating to the ownership of financial institutions."

SB 756: "An act relating to the ownership of financial institutions; and providing for an effective date."

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

21 February, 1982

TO: Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The Senate Labor and Commerce Committee announces a committee meeting to be held on March 3rd, 1982, at 3:00pm in the Butrovich Room. The agenda for the meeting will be as follows:

CSHB 524: "An act relating to small loans; and providing for an effective date."

SB 749: "An act relating to equity participation; and providing for an effective date."

SB 750: "An act relating to the deregulation of interest rates; and providing for an effective date."

SB 752: "An act relating to Savings Associations; and providing for an effective date."

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

MEMORANDUM

15 January, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce

The Senate Labor and Commerce Committee announces a joint House and Senate Labor and Commerce meeting to be held on Wednesday, 27 January, 1982, at 1:30pm, in the first floor conference room at the Behrends Building.

The meeting will be a presentation on the results of the Vocational Rehabilitation Study, and the preliminary findings of national consultant John Lewis, who is conducting a comprehensive Workers Compensation Study for the Department of Labor.

BOARD CONFIRMATIONS

Alaska State Legislature

Senate

Office of the Secretary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: 22 March 1982

TO : Senator Mulcahy, Chairman
Labor and Commerce Committee

FROM: Peggy Mulligan
Secretary of the Senate

RE : Governor's Appointments

The President has referred the following Governor appointee's to your Committee for recommendation in accordance with AS 39.5.080:

BOARD OF MARINE PILOTS

*Capt. Donald J. Oldow, Seward, term expiring 06/01/85

OCCUPATIONAL SAFETY & HEALTH REVIEW BOARD

*Lew L. McFerren, Skagway, term expiring 08/01/85
*Lars Eide, Petersburg, term expiring 08/01/85

ALASKA WORKER'S COMPENSATION BOARD

*Morris M. Langberg, Fairbanks, term expiring 07/01/84

*Reappointment

Resumes enclosed

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

25 March, 1982

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individual appointed by the Governor to the Alaska Industrial Development Authority:

Mike Harper, Anchorage, term expiring 7/01/83

There were no stated objections to confirmation of the named individual by committee members. This does not necessarily indicate an intention to vote for or against the individual named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

12 April, 1982

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individuals appointed by the Governor to the Occupational Safety and Health Review Board:

Lew L. McFerren, Skagway, term expiring 08/01/85

Lars Eide, Petersburg, term expiring 08/01/85

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against the individuals named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

25 March, 1982

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individual appointed by the Governor to the Board of Electrical Examiners:

Gordon J. Helem, Sitka, term expiring 7/10/84

There were no stated objections to confirmation of the named individual by committee members. This does not necessarily indicate an intention to vote for or against the individual named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

25 March, 1982

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individuals who were appointed by the Governor to the Alaska Worker's Compensation Board:

Peter P. Gerl, Anchorage, term expiring 7/1/85

Ann S. Pittenger, Anchorage, term expiring 7/1/84

William B. Woodland, Anchorage, term expiring 7/1/85

There were no stated objections to confirmation of the named individuals by committee members. This does not indicate an intention to vote for or against the individuals named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

25 March, 1982

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individuals who were appointed by the Governor to the Alaska Public Utilities Commission:

Carolyn Guess, Anchorage, term expiring 10/31/87

Susan Knowles, Anchorage, term expiring 10/31/87

Diana Snowden, Anchorage, term expiring 10/31/86

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against the individuals named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Official Business

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State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA WORKER'S COMPENSATION BOARD

Peter P. Gerl, Anchorage, term expiring 7/1/85
*Ann S. Pittenger, Anchorage, term expiring 7/1/84

William D. Woodland, Anchorage, term expiring 7/1/85

Resumes are attached for the above named individuals, and I would appreciate hearing from you by 1 March, 1982, if you have objections to their confirmation. Thank you.

*Reappointment

R E S U M E

Name: Peter P. Gerl

Address: 1210 W. 47th Avenue, Apt. #4
Anchorage, Alaska 99503
(907) 276-5829

Born: January 31, 1920 - Hewitt, Wisconsin

Married: Wife - Frances
Daughter - Clara

Education: High School Education with various seminar(s) to update skills and abilities for my involved profession(s) (i.e. International Foundation of Employee Benefit Plans, I.B.T. Labor Institutes).

Alaska: I have resided in the Territory and State of Alaska for approximately 30 years.

Military Service: I served in the United States Navy in Alaska from 1943 to 1946. Honorable Discharge.

Brief Work History: I have worked in the Construction Industry in Alaska both as a member of the Laborers and Teamsters. I worked out of the Laborers Union until 1958, at which time I joined and was employed through the Teamsters.

From 1960 - 1964 - I worked in the Communication Industry at Clear, Alaska, employed as a Teamster Craft Supervisor for the BMEWS site.

From 1964 - 1977 - I served as Business Representative and Union President until my recent retirement. While serving as a Union Representative and Officer, I served on various Local Union Benefit Trust Funds and other Civic and State related Commissions (i.e. Economic Development Commission).

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor, Workers' Compensation Div.

I, Peter P. Gerl, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Member of (board or commission) The Workers' Compensation Board to the best of my ability.

Peter P. Gerl

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Francisco
Notary Public, State of Alaska
My Commission expires: 1-19-1984

(Seal,

AFFIDAVIT

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

RECEIVED
JAN 27 '82
GOVERNORS OFFICE

FULL NAME PETER PAUL GERL

PLACE OF RESIDENCE 1210 W 47 APT #4 99503

BIRTHPLACE HEWITT WIS.

MAILING ADDRESS 1210 W 47 APT 4 ANCHORAGE 99503

I HAVE LIVED IN ALASKA FOR 36 4 EARS YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

N/A

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED NO 17

I, Peter P Gerl, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Blanchflower
Notary Public, State of Alaska
My Commission expires: 1-19-1984

6602 Lakeway Drive
Anchorage, Alaska 99502

Telephone: Office (907) 278-2525
Residence (907) 243-7238

PROFESSIONAL OBJECTIVE

To transfer my knowledge and experience in Personnel Management to the field of Real Estate, utilizing interviewing skills to determine the needs and wants of clients and customers, and negotiating techniques to obtain the best terms possible. Being self-employed the financial returns proves capabilities, whereas when on salary there is always the question of one's professional worth.

EXPERIENCE

April 1981 - Present Area, Inc. Realtors 4794 Business Park Blvd Building F Anchorage, Alaska 99503	REAL ESTATE ASSOCIATE Serve the public in their Real Estate needs.
October 1974 - June 1980 The Hotel Captain Cook P.O. Box 2280 Anchorage, Alaska 99510 Att: Walter J. Hickel, Jr.	DIRECTOR OF PERSONNEL Initiated and developed a viable Personn Department and Program for all Hickel properties. Was responsible for monitoring same.
Tax Season 1973 & 1974 H & R Block 2810 C Street Anchorage, Alaska 99502 Att: Steve Audette	INCOME TAX CONSULTANT Prepared personal and small business taxes. Managed branch office in 1974.
October 1968 - June 1971 Mother Wright's Bakery P.O. Box 1345 Station 4 Omaha, Nebraska 68110 (Company Sold)	EMPLOYEE RELATION MANAGER Handled all personnel functions includin preparations for Union negotiations and grievances.
October 1964 - June 1968 Fedway Department Stores East Central Avenue Albuquerque New Mexico 87106 Att: William F. Burnette	ASSISTANT PERSONNEL MANAGER In charge of recruiting, interviewing, a hiring sales, clerical, and maintenance personnel (2½ years). PERSONNEL ASSISTANT Responsible for establishing, conducting and evaluating a new Sales Training Program (1 year). FLOATING SALES PERSON Sales in all Departments (3 months).
Prior 1964	Talent for television commercials; Children's Radio Program; Airline Reservationist and Ticket Agent; Summer Stock Theatre.

EDUCATION

1980 - Present	Courses in Real Estate.
1965 - 1980	Courses in Management and related semina
1946 - 1949 University of New Mexico Albuquerque, New Mexico	Major Fine Arts (Theatre) Minor English
1945 Albuquerque High School	Graduated

PRESENT AFFILIATIONS

National Association of Realtors/Member-Alaska Workers Compensation Board/ American Society for Personnel Administrators.

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor

I, Ann S. Pittenger, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a member of (board or commission) Alaska Workmen's Compensation Board to the best of my ability.

Ann S. Pittenger

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 1979.

Notary Public, State of Alaska
My Commission expires: 4-4-82

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Ann S. Pittenger

PLACE OF RESIDENCE Anchorage, Alaska

BIRTHPLACE Boston, Massachusetts

MAILING ADDRESS 6602 Lakeway Dr., Anchorage, Alaska 99502

I HAVE LIVED IN ALASKA FOR Eight (8) YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED Anchorage No. 120 - Election District No 12

I, Ann S Pittenger, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 19 79.

Notary Public, State of Alaska
My Commission expires: 4-4-82

RECEIVED
DEC 1 1981
OFFICE OF THE COMMISSIONER

WILLIAM B. WOODLAND
700 "I" Street
Anchorage, Alaska 99501
(907) 272-8501

General

Born April 22, 1949
Alaska Resident Since 1953
Married, Two Children

Education

Graduated from High School, Anchorage, Alaska 1967
Graduated from Western Washington University 1971, Engineering Degree

Work History

1971 - 1981: Self-employed as owner/operator of Snow White Laundry and Cleaners & Quality Linen Supply, Anchorage, Alaska; and Quality Cleaners and Laundry, Eagle River, Alaska.

1975 - 1977: Served as Management Member on the Alaska Workers' Compensation Board, Anchorage, Alaska

Workers' Compensation

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Ziegler
Senator Rodey

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF ELECTRICAL EXAMINERS

Gordon J. Helem, Sitka, term expiring 7/10 1984

A resume is attached for the above named individual, and I would appreciate hearing from you by 1 March, 1982, if you have objections to this confirmation. Thank you.

TRAINING & EXPERIENCE: (If resumé attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

Alaska Electrical Contractor License IW & OLW #176
Original license issued in 1969

Specialty Contractor License #AA 0810

Certificate of Commission to the Board of Electrical Examiners 1971-1975

B. List both formal and informal education and training experiences: (Use additional paper if necessary)

High School

6 quarters University of Washington Engineering School

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

City of Sitka Public Utility Board approx. 4 years

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

Construction & maintenance electrician: 1949-1959

Electrical Superintendant, Alaska Lumber & Pulp Co.: 1959-1963
Maintenance Dept Supervisor, " " " " : 1963-1967

Electrical Contractor : 1968-Present

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX
☒ Male
☐ Female

ETHNIC BACKGROUND
☒ White ☐ Black ☐ Hispanic ☐ Alaska Native ☐ Asian or Pacific Islander ☐ American Indian

Date of Birth	Military Service (If applicable, give dates)
7/12/22	U.S. Navy 1944-1946

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature [illegible] Date 9/1/81

SITKA ELECTRIC, INC.

BOX 1609 - 815 HALIBUT POINT ROAD — SITKA, ALASKA — 99835 747-8887

GORDON J. HELEM
ELECTRICAL CONTRACTOR

December 14, 1981

VOCATIONAL RÉSUMÉ

Gordon J. Helem
P.O. Box 1609
Sitka, Alaska 99835

Age: 59

1949-1954 Maintenance Electrician, Bethlehem Steel, Seattle, Washington

1954-1958 Maintenance Electrician, Ketchikan Pulp Co., Ketchikan, Alaska

1958-1959 Construction Electrician, City Electric, Anchorage, Alaska

1959-1963 Electrical Supervisor, Alaska Lumber & Pulp Co., Sitka, Alaska

1963-1967 Maintenance Supervisor, Alaska Lumber & Pulp Co., Sitka, Alaska

1967-Present Manager & President, Sitka Electric, Inc., Sitka, Alaska

STATE OF ALASKA

OATH OF OFFICE

Office or Department DEPARTMENT OF COMMERCE

I, GORDON JAMES HELEM, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a MEMBER of (board or commission) BOARD OF ELECTRICAL EXAMINERS to the best of my ability.

Gordon J. Helem

Subscribed and Sworn to before me this 12 day of Oct., 1981.

Delores M. Hanson
Notary Public, State of Alaska
My Commission expires: 11-25-84

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME GORDON JAMES HELEM

PLACE OF RESIDENCE 1105 HALIBUT POINT ROAD, SITKA, ALASKA

BIRTHPLACE CORONATION, ALBERTA, CANADA

MAILING ADDRESS P.O. BOX 1609, SITKA ALASKA 99835

I HAVE LIVED IN ALASKA FOR 37 YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

1932, SEATTLE WASHINGTON

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED SITKA PRECINCT #3

I, GORDON JAMES HELEM, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Gordon J Helem

Subscribed and Sworn to before me this 12 day of Oct, 19 81.

Delores M. Hansen

Notary Public, State of Alaska

My Commission expires: 11-25-84

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

Mike Harper, Anchorage, term expiring 7/01/83

A resume is attached for the above named individual, and I would appreciate hearing from you by 1 March, 1982, if you have objections to the confirmation. Thank you.

RESUME

MICHAEL C. HARPER

Personal

5051 Mills Drive
Anchorage, Alaska 99504
(907) 333-0372

37 years old (DOB 11-30-44)
Married: Jane E. Harper
One Daughter: Kristine

Education

1968 graduate of University of Georgia, Bachelor of Business Administration; continuing professional development with courses in Commercial Banking and Lending

Military

1968 - 1971 U.S. Army

Employment History

September 1979 to Present	Loan Officer - United Bank Alaska Commercial Loan Department 645 G Street Anchorage, Alaska 99501
January 1975 - August 1979	Deputy Commissioner - Department of Community & Regional Affairs; Administrative Assistant to the Governor Office of Lt. Governor State of Alaska Juneau, Alaska
July 1971 - December 1974	Planner Deputy Director Executive Director Rural Alaska Community Action Program Anchorage

Civic & Professional Organizations

Member - Tundra Times Board of Directors
Member - Basic Industrial Development Steering Committee

Past Memberships

Member - Doyon, Ltd.
Member - Governor's Task Force on Telecommunications
Member - Bristol Bay Regional Development Council
Member - State Manpower Planning Council
Member - United Bank Alaska

Awards

Outstanding Young Man Award - 1976
Community Leaders & Noteworthy Americans - 1976

STATE OF ALASKA

OATH OF OFFICE

Office or Department Alaska Industrial Development Authority

I, Michael C. Harper, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a _____ of (board or commission) board member to the best of my ability.

Michael C. Harper

Subscribed and Sworn to before me this 22nd day of September, 1981.

Janice D. Beam
Notary Public, State of ALASKA
My Commission expires: My Commission expires Dec. 10, 1984

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT
TO AN ALASKA BOARD OR COMMISSION

FULL NAME Michael C. Harper

PLACE OF RESIDENCE 5051 Mills Drive Anchorage, Alaska 99504

BIRTHPLACE Fairbanks, Alaska

MAILING ADDRESS 5051 Mills Dr. Anchorage, Ak 99504

I HAVE LIVED IN ALASKA FOR 36 YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED Election District 10 Anchorage No. 22

I, Michael C. Harper, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Michael C Harper

Subscribed and Sworn to before me this 22nd day of September, 19 81.

Janice D. Beaver
Notary Public, State of ALASKA
My Commission expires: My Commission expires: Dec. 10, 1984

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA PUBLIC UTILITIES COMMISSION

* Carolyn Guess, Anchorage, term expiring 10/31/87

* Susan Knowles, Anchorage, term expiring 10/31/87

Diana Snowden, Anchorage, term expiring 10/31/86

Resumes are attached for the above named individuals, and I would appreciate hearing from you by 1 March, 1982, if you have objections to their confirmations. Thank you.

*Reappointments

CAROLYN S. GUESS

Commissioner Guess is currently the Chairman of the Alaska Public Utilities Commission.

EDUCATION

Bachelor of Arts Degree - College of Williams & Mary
Williamsburg Va

The Annual Regulatory Studies Program
National Association of Regulatory
Utility Commissioners - 1976

Seminar for Retail Rate Consultants
Rural Electrification Administration - 1977

Public Utility Seminar on Corporate Finance
Kidder, Peabody & Co., Incorporated - 1978

Electric Utility Rate Design Study
Electric Power Research Institute - 1980

RELEVANT EXPERIENCE

Alaska Public Utilities Commission

1975 - present - Commissioner
March 1981 - present - Chairman
March 1978 - November 1978 - Acting Executive Director
July 1979 - October 1979 - Acting Executive Director

National Association of Regulatory Utility Commissioners

1975--present	Member
1978-present	Ad Hoc Committee on the National Energy Act

SIGNIFICANT LEGISLATIVE TESTIMONY

Sunset Review of AS 42.05 - 1980

Merger of Alaska Pipeline
Commission and Alaska Public
Utilities Commission - 1981

CONFERENCE PARTICIPATION

Energy Conference sponsored by the Alaska Native Foundation 1979

Governor's Committee - State Energy Policy - 1978-80

Reliability Council for Alaska (electric)
sponsored by Alaska Power Administration 1980-present

SUSAN M. KNOWLES

1319 G Street
Anchorage, Alaska 99501

(907) 279-6336

EDUCATION:

University of Alaska
Anchorage, Alaska
MBA, Finance, 1979

Vassar College
Poughkeepsie, New York
AB, Political Science, 1968

EMPLOYMENT:

October, 1975 to Present:

Commissioner

State of Alaska
Alaska Public Utilities Commission
Anchorage, Alaska

June, 1973 to September, 1975:

Property Investment Finance Manager

David E. Alm and Joe L. Hayes
Borough-City Development, Inc.
Campbell Lake Development Co.
Campbell Lake Inc.
Anchorage, Alaska

November, 1970 to September, 1975:

Secretary-Treasurer

Grizzly Burger, Inc.
Anchorage, Alaska

December, 1968 to November, 1970:

Administrative Assistant

Community Enterprise Development Corporation
Anchorage, Alaska

R E S U M E

DIANA E. SNOWDEN

Trapline Drive
SRA Box 1735-M
Anchorage, Alaska 99507

Home: (907) 344-0000
Work: (907) 263-2112

EXPERIENCE:

ALASCOM, INC., 949 EAST 36TH AVE., ANCHORAGE, AK 99502
TELEPHONE UTILITIES, INC., 1221 S.W. YAMHILL ST., PORTLAND, OR 97205

Vice President, Industrial Relations - September 1980 to September 1981. Salary and Bonus $75,000.

Holding dual Vice President office positions for Alascom and Telephone Utilities (both subsidiaries of Pacific Power & Light), was responsible for policy level decisions affecting the overall business performance of the two companies and their 2,500 employees. As a member of the senior executive staff, approved $50 million in annual capital expenditure requests, participated in the budget review process of $80 million in annual operating costs, reviewed financial and operating statements of the company's monthly progress against budget. Initiated written corporate policy statements, directed management efficiency studies as well as time-and-motion analyses designed to eliminate unnecessary staffing and inefficient spending in a regulated industry. Presented formal reports to the Board of Directors of Alascom, Telephone Utilities, and their parent company (Pacific Power & Light) on matters affecting administration, employee and labor relations.

Directed combined Industrial Relations and Corporate Administrative Services staff composed of over 60 professional and clerical personnel with a 1981 budget of $7 million. Responsibility for direction and coordination of all functions of Industrial Relations included: corporate employment in over 80 geographic locations in five states, labor relations and contract negotiations with largest Teamster bargaining unit in Alaska as well as IBEW and CWA units in Pacific Northwest, wage and salary administration, employee benefits, management training and development, position classification, EEO and Affirmative Action Programs, employee communications, long-range organizational planning and development, Workers' Compensation, performance appraisals, College Honors Internship Program, Safety and DOD Military Security, and employee social and recreational events. Was further responsible for Corporate Administrative Services including: Word Processing Center, mail and courier services, Telex, corporate aircraft and travel, office supplies and equipment, company cafeteria and motor pool, records management, and office space planning and allocation.

Provided guidance and direction for establishment of corporate policies and long-range planning with regard to human resource management. Provided direct policy guidance on design and development of employee benefits and compensation programs. Personally served as chief negotiator and spokesperson in labor negotiations with seven (7) parent company unions, and determined grievance resolutions. Testified on behalf of Alascom before regulatory agencies on telecommunications issues; represented the Company by speaking to statewide community groups and organizations.

Director of Employee Relations (ALASCOM) - May 1979 to September 1980. Salary $48,000.

Responsibilities essentially identical to those stated above, but were limited to Alascom only and did not include Telephone Utilities.

ANCHORAGE SCHOOL DISTRICT, 4600 DEBARR ROAD, ANCHORAGE, AK

Director of Employee Relations/EEO - August 1977 to May 1979. Salary $39,000.

Served as Chief Negotiator on administration negotiating committees; reported directly to the School Board on labor and negotiation matters. Conducted administrative hearings on employee terminations, suspensions, and other serious disciplinary actions, and established District position on disputed union grievances before appointed Hearing Examiner or Arbitrator. Presented School District's case, examined witnesses prepared briefs, etc. Represented School District before State Unemployment Compensation Office in appeal hearings and prepared cases and represented School District in student/employee discrimination suits (over 70) before various federal and state human rights enforcement agencies.

Organized and conducted School District's training seminars on grievances, EEO, and personnel management related subjects. Chaired Classified Evaluation pilot program committee. Chaired District's Planning and Development Committee and wrote substantial portion of District's five-year operating goals. Responsible for all CETA contracts with State and Municipality. Represented School District in speaking before organizations and groups on a variety of community interests/concerns.

Director, Equal Employment Opportunity Office - November 1973 to July 1977. Salary $30,000

Responsible for development, implementation, and monitoring of comprehensive district-wide Affirmative Action Plan designed to assure fair and impartial programs relative to employment, pro-

motion, and training for nearly 4,000 employees of the School District. Substantially increased the percentage of minorities in every job classification level. Approved all employee selection and promotion decisions to increase consideration of minority applicants.

WESTWOOD MANAGEMENT CORPORATION, 5401 WESTBARD AVE., WASHINGTON, D.C.

Assistant Vice President/Treasurer - April 1970 to September 1973. Salary and Options $22,000.

Directed real estate management affairs concerned with day-to-day operation of office staff, which managed commercial real estate investments of over $110,000,000, and held overall operational responsibility for headquarters office in absence of Executive Vice President. Prepared profit and loss statements, net cash flow charts, and cost-effectiveness studies based upon comparable Washington, D.C. real estate market.

SYSTEMS RESEARCH CORPORATION, 1028 CONNECTICUT AVE., WASHINGTON, D.C.

Manager, Proposals and Solicitations - July 1969 to April 1970. Salary $14,000.

General responsibilities centered on research and writing of proposals and government contract bids, including supervision and coordination of staff of nine; liaison with government officials; and marketing. Performed marketing research analyses, attended Congressional hearings, interviewed legislative aides, and researched expected appropriations. Also responsible for corporate news releases and design and writing of a company brochure.

Research Associate - January 1969 to July 1969.
Salary $8,900.

Researched and co-authored five technical reports on pre-design phase of the Navy's Amphibious Fire Support Ship (LFS): "Life-Cycle Cost Analysis," "Interface Requirements," "Fixed Annual Operating Costs," "Sensitivity and Trade-Off Analysis," and "Competing Systems."

Technical Assistant - September 1969 to January 1970.
Salary $6,000.

Researched and wrote classified manuscripts on governmental and economic systems of Jordan, Tunisia and Turkey for technical documents prepared under contract to the U.S. Department of Defense. Rewrote, copy-edited text, and prepared all research and bibliographical materials for entire project.

EDUCATION (GRADUATE) PROFESSIONAL CERTIFICATE, LABOR/MANAGEMENT RELATIONS, UNIVERSITY OF ALASKA, ANCHORAGE, ALASKA, 1978.

M.P.A. CANDIDATE, UNIVERSITY OF ALASKA, ANCHORAGE, ALASKA. CONCENTRATION LABOR/MANAGEMENT RELATIONS (coursework completed; thesis remaining).

M.A. GEORGETOWN UNIVERSITY, WASHINGTON, D.C., 1969. MAJOR - POLITICAL SCIENCE (URBAN STUDIES).

B.A. TRINITY COLLEGE, WASHINGTON, D.C. 1967, MAJOR - GOVERNMENT

HONORS & ACTIVITIES

COLLEGE: Four-year scholarship to Trinity College; Dean's List; V.P. Student Council; V.P. Russian Club; elected to Pi Gamma Mu Honor Society; graduated Summa Cum Laude; Nominated for Woodrow Wilson Fellowship.

HIGH SCHOOL: Valedictorian; National Merit Scholarship Finalist; Texas State Debating Champion; Second in U.S. Cross-Examination Debate; Texas Science Fair Winner in Biology.

PERSONAL

Date of Birth - October 29, 1947; Height - 5' 11"; Weight - 120 lbs; Health - excellent.

REFERENCES

References from current and all past employees provided gladly upon request.

STATE OF ALASKA

OATH OF OFFICE

Office or Department of Commerce & Econ. Dev.

I, Diana E. Snowden, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Commissioner of (board or commission) the Alaska Public Utilities Comm. to the best of my ability.

Diana E. Snowden

Subscribed and Sworn to before me this 23rd day of Sept., 19 81.

Rona J. McPherren
Notary Public, State of Alaska
My Commission expires: 3-20-85

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Diana F. Snowden

PLACE OF RESIDENCE Anchorage, Alaska

BIRTHPLACE New York, New York

MAILING ADDRESS SRA Box 1735-M, Anchorage 99507

I HAVE LIVED IN ALASKA FOR eight (8) YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

n/a

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED O'Malley Elementary #130

I, Diana F. Snowden, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Diana F. Snowden

Subscribed and Sworn to before me this 23rd day of September 1981.

Lorna J. McPherron

Notary Public, State of Alaska

My Commission expires: 3-20-85

Alaska State Legislature

Senate

Office of the Secretary

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: February 10, 1982

TO : Senator Mulcahy
Chairman
Labor & Commerce Committee

FROM: Peggy Mulligan
Secretary of the Senate

RE : Governor's Appointments

The President has referred the following Governor's appointee's to your Committee for recommendation in accordance with AS 39.5.080:

BOARD OF ELECTRICAL EXAMINERS

Gordon J. Helem, Sitka, term expiring 7/10/84

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

Mike Harper, Anchorage, term expiring 7/01/83

ALASKA PUBLIC UTILITIES COMMISSION

*Carolyn Guess, Anchorage, term expiring 10/31/87
*Susan Knowles, Anchorage, term expiring 10/31/87
Diana Snowden, Anchorage, term expiring 10/31/86

ALASKA WORKER'S COMPENSATION BOARD

Peter P. Gerl, Anchorage, term expiring 7/1/85
*Ann S. Pittenger, Anchorage, term expiring 7/1/84
William B. Woodland, Anchorage, term expiring 7/1/85

*Reappointment
Resumes enclosed

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senator Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA WORKER'S COMPENSATION BOARD

Peter P. Gerl, Anchorage, term expiring 7/1/85
*Ann S. Pittenger, Anchorage, term expiring 7/1/84

William B. Woodland, Anchorage, term expiring 7/1/85

Resumes are attached for the above named individuals, and I would appreciate hearing from you by 1 March, 1982, if you have objections to their confirmation. Thank you.

*Reappointment

R E S U M E

Name: Peter P. Gerl

Address: 1210 W. 47th Avenue, Apt. #4
Anchorage, Alaska 99503
(907) 276-5829

Born: January 31, 1920 - Hewitt, Wisconsin

Married: Wife - Frances
Daughter - Clara

Education: High School Education with various seminar(s) to update skills and abilities for my involved profession(s) (i.e. International Foundation of Employee Benefit Plans, I.B.T. Labor Institutes).

Alaska: I have resided in the Territory and State of Alaska for approximately 30 years.

Military Service: I served in the United States Navy in Alaska from 1943 to 1946. Honorable Discharge.

Brief Work History: I have worked in the Construction Industry in Alaska both as a member of the Laborers and Teamsters. I worked out of the Laborers Union until 1958, at which time I joined and was employed through the Teamsters.

From 1960 - 1964 - I worked in the Communication Industry at Clear, Alaska, employed as a Teamster Craft Supervisor for the BMEWS site.

From 1964 - 1977 - I served as Business Representative and Union President until my recent retirement. While serving as a Union Representative and Officer, I served on various Local Union Benefit Trust Funds and other Civic and State related Commissions (i.e. Economic Development Commission).

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor, Workers' Compensation Div.

I, Peter P. Gerl, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Member of (board or commission) The Workers' Compensation Board to the best of my ability.

Peter P. Gerl

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Branchflower
Notary Public, State of Alaska
My Commission expires: 1-19-1984

(Seal)

AFFIDAVIT

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

RECEIVED
JAN 27 '82
GOVERNORS OFFICE

FULL NAME PETER PAUL GERL

PLACE OF RESIDENCE 1210 W 47 APT #4 99503

BIRTHPLACE HEWITT WIS.

MAILING ADDRESS 1210 W 47 APT 4 ANCHORAGE 99503

I HAVE LIVED IN ALASKA FOR 36 4 YEARS YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

N/A

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED NO 17

I, Peter (P) Gerl, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Brandstrom
Notary Public, State of Alaska
My Commission expires: 1-19-1984

(Confidential)

ANN S. PITTENGER
6602 Lakeway Drive
Anchorage, Alaska 99502

Telephone: Office (907) 278-2525
Residence (907) 243-7238

PROFESSIONAL OBJECTIVE

To transfer my knowledge and experience in Personnel Management to the field of Real Estate, utilizing interviewing skills to determine the needs and wants of clients and customers, and negotiating techniques to obtain the best terms possible. Being selfemployed the financial returns proves capabilities, whereas when on salary there is always the question of one's professional worth.

EXPERIENCE

April 1981 - Present Area, Inc. Realtors 4794 Business Park Blvd Building F Anchorage, Alaska 99503	REAL ESTATE ASSOCIATE Serve the public in their Real Estate needs.
October 1974 - June 1980 The Hotel Captain Cook P.O. Box 2280 Anchorage, Alaska 99510 Att: Walter J. Hickel, Jr.	DIRECTOR OF PERSONNEL Initiated and developed a viable Personn Department and Program for all Hickel properties. Was responsible for monitoring same.
Tax Season 1973 & 1974 H & R Block 2810 C Street Anchorage, Alaska 99502 Att: Steve Audette	INCOME TAX CONSULTANT Prepared personal and small business taxes. Managed branch office in 1974.
October 1968 - June 1971 Mother Wright's Bakery P.O. Box 1345 Station 4 Omaha, Nebraska 68110 (Company Sold)	EMPLOYEE RELATION MANAGER Handled all personnel functions includin preparations for Union negotiations and grievances.
October 1964 - June 1968 Fedway Department Stores East Central Avenue Albuquerque, New Mexico 87106 Att: William F. Burnette	ASSISTANT PERSONNEL MANAGER In charge of recruiting, interviewing, a hiring sales, clerical, and maintenance personnel (2½ years). PERSONNEL ASSISTANT Responsible for establishing, conducting and evaluating a new Sales Training Program (1 year). FLOATING SALES PERSON Sales in all Departments (3 months).
Prior 1964	Talent for television commercials; Children's Radio Program; Airline Reservationist and Ticket Agent; Summer Stock Theatre.

EDUCATION

1980 - Present	Courses in Real Estate.
1965 - 1980	Courses in Management and related semina
1946 - 1949 University of New Mexico Albuquerque, New Mexico	Major Fine Arts (Theatre) Minor English
1945 Albuquerque High School	Graduated

PRESENT AFFILIATIONS

National Association of Realtors/Member-Alaska Workers Compensation Board/ American Society for Personnel Administrators.

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor

I, Ann S. Pittenger, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a member of (board or commission) Alaska Workmen's Compensation Board to the best of my ability.

Ann S. Pittenger

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 1979.

John L. O'Berry

Notary Public, State of Alaska

My Commission expires: 4-9-82

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Ann S. Pittenger

PLACE OF RESIDENCE Anchorage, Alaska

BIRTHPLACE Boston, Massachusetts

MAILING ADDRESS 6602 Lakeway Dr., Anchorage, Alaska 99502

I HAVE LIVED IN ALASKA FOR Eight (8) YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED Anchorage No. 120 - Election District No 12

I, Ann S Pittenger, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 19 79.

Notary Public, State of Alaska
My Commission expires: 4-4-82

RECEIVED
DEC 1 1981
OFFICE OF THE COMMISSIONER

WILLIAM B. WOODLAND
700 "I" Street
Anchorage, Alaska 99501
(907) 272-8501

General

Born April 22, 1949
Alaska Resident Since 1953
Married, Two Children

Education

Graduated from High School, Anchorage, Alaska 1967
Graduated from Western Washington University 1971, Engineering Degree

Work History

1971 - 1981: Self-employed as owner/operator of Snow White Laundry and Cleaners & Quality Linen Supply, Anchorage, Alaska; and Quality Cleaners and Laundry, Eagle River, Alaska.

1975 - 1977: Served as Management Member on the Alaska Workers' Compensation Board, Anchorage, Alaska

Workers' Compensation

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

22 March, 1982

TO: Senator Anderson
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA WORKER'S COMPENSATION BOARD

*Morris M. Langberg, Fairbanks, term expiring 07/01/84

A resume is attached for the above named individual, and I would appreciate hearing from you if you have objections to the confirmation. Thank you.

*Reappointment

International Union of Operating Engineers

AFFILIATED WITH AFL-CIO

LOCAL 302 AND BRANCHES A, B, C AND D

FRANK T. POLSAK, *Business Manager*

JOSEPH C. ALBERT, *President*

ROD J. FRASER, *Financial Secretary*

Branch Offices:
WENATCHEE, WASHINGTON
YAKIMA, WASHINGTON
ANCHORAGE, ALASKA
FAIRBANKS, ALASKA
JUNEAU, ALASKA

WESTERN AVE. AND CLAY ST.
SEATTLE, WASHINGTON 98121
TELEPHONE: (206) 622-6180

March 12, 1982

Office of the Governor
Pouch A
Juneau, Alaska 99811

ATTN: Bernadette Campbell

To Whom It May Concern:

I have been a resident of Alaska since 1947 with most of the time in the Fairbanks area. I have five children born and raised here in Fairbanks. For the past twenty-nine years I have been a member of Operating Engineers Local 302 in Fairbanks, the last ten years as business agent. For the past seven years I have also held the position of President of the Fairbanks Joint Crafts Council and am also President of the AFL-CIO Crafts Council.

The United Way of Fairbanks gave me the opportunity to help serve my fellow citizens in the capacity of being on the Board of Directors as well as being chosen to sit on the executive committee and subsequently elected as Vice President. I served in this capacity as long as time constraints allowed.

I was on the Governor's Statewide Manpower Planning Council until it was abolished per our recommendation as being redundant. Since December 8, 1980, I have been a member of the Region II Planning Council.

Serving on the Workman's Compensation Board since August 24, 1979 has been a most challenging opportunity to serve my State and one which I am looking forward to continuing.

If you require any further information, please feel free to contact me at your convenience.

Very truly yours,

M M Langberg

M. M. Langberg

STATE OF ALASKA

OATH OF OFFICE

Office or Department Alas: Workmen's Compensation Board

I, Morris M. Langberg, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a member of (board or commission) Alaska Workmen's Compensation Board to the best of my ability.

Morris M. Langberg

Subscribed and Sworn to before me this 27 day of August, 1979.

Mary Ann Lucas
Notary Public, State of Alaska
My Commission expires: 8-17-80

(Seal)

Ber form w/ cert
Marie 9/4

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Morris M Langberg

PLACE OF RESIDENCE Fairbanks, Alaska

BIRTHPLACE North Bend, Oregon

MAILING ADDRESS 522 Glacier Ham Acres 99701

I HAVE LIVED IN ALASKA FOR 32 YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED North Star Borough precinct #13

I, Morris M. Langberg, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Morris M Langberg

Subscribed and Sworn to before me this 27 day of August, 1979.

Mary Ann Tupper
Notary Public, State of Alaska
My Commission expires: 8-17-80

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

22 March, 1982

TO: Senator Anderson
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy - Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

OCCUPATIONAL SAFETY AND HEALTH REVIEW BOARD

*Lew L. McFerren, Skagway, term expiring 08/01/85

*Lars Eide, Petersburg, term expiring 08/01/85

A resume is attached for the above named individuals, and I would appreciate hearing from you if you have objections to their confirmations. Thank you.

*Reappointment

NEWS RELEASE

FOR IMMEDIATE RELEASE

J. ALLAN MCKINNON, INFORMATION OFFICER
P. O. BOX 1149
JUNEAU, 99811
907-465-2700

MCFERREN RETIRES

Lew McFerren, Assistant Commissioner of the Alaska Department of Labor will retire. That announcement from the Alaska Department of Labor. McFerren has served in his present position since July of 1975, but is not a newcomer to the job. He was Assistant Commissioner of Labor in the Fairbanks area under Governor Walter J. Hickel and Governor Keith Miller from 1967 through May of 1970.

Commissioner Orbeck, announcing McFerren's retirement, says, "He will be sorely missed by all of us. He provided invaluable assistance in the settlement of fish disputes, and coordinated the issuance of residency cards during implementation of the controversial local hire law."

McFerren worked as a safety inspector for the Department from 1966 to 1967 and was Alaska area manager for an explosives company for five years. His other state employment was with the Department of Highways from 1963 to 1967.

McFerren's background embraces many years of significant experience in construction, road building, mining, and industrial explosives operations.

McFerren bought the ghost town of McCarthy and completed restoration of that property. McFerren attended grammar school in Skagway and was a graduate of Douglas High School, Class of 1927. His early mining experience included various hard rock mines out of Ketchikan; The Alaska Juneau Mine, Juneau, The Fern Mine, out of Anchorage and the Kennicott and Nabesna Mines. McFerren's last day on the job is February 28th, but he will officially retire May 3rd.

Date of Release: February 27, 1979

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Lew L Mc Ferren

PLACE OF RESIDENCE S.R.A. 1739 E. Anchorage, Alaska

BIRTHPLACE Skagway, ALASKA

MAILING ADDRESS S.R.A. 1739 E. Anchorage. Alaska-344-4770

I HAVE LIVED IN ALASKA FOR — 70 — YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED No-0066902S - Election District # 11 Anchorage No. 130 -

I, Lew L. Mc Ferren, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Lew L Mc Ferren

Subscribed and Sworn to before me this 17th day of May, 1980.

Margaret E Fraser

Notary Public, State of Alaska

My Commission expires: Oct 6-12 1983

STATE OF ALASKA

OATH OF OFFICE

Office or Department ALASKA state Dept. of Labor

I, LOWL MC FERREN, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a _____ of (board or commission) Occupational SAFety Health AND REVIEW Board. to the best of my ability.

Lowl Mc Ferren

Subscribed and Sworn to before me this 17th day of May, 1980.

Margaret E. Friend
Notary Public, State of Alaska
My Commission expires: Oct-12-1983

(Seal)

RESUME of Lars Eide (OSHA Review Board)

Date of Birth Feb. 1, 1911 at Stanwood, Washington

Graduated from Stanwood High School - 1928

Attended University of Washington - 1929-1930

First came to Alaska in summer season of 1929

Came to Alaska permanently in 1933. Have been a continuous resident since that date. Living in Petersburg, Juneau, Douglas, Wrangell, Craig. Lived in Wrangell 8 years, Lived in Petersburg continuously since 1944. Remainder of time lived in the other above mentioned towns.

Present occupation - retired.

Past and present community and state affiliations

Member of OSHA Review Board - 4 years
Member of City Council of City of Petersburg = 2 years
Chairman of Dist. 2 of Republican Party - 5 years
Chairman of the Salvation Army Advisory Board - Petersburg - 6 years
President and Past President of Igloo # 26 - Pioneers of Alaska - 3 years
Past member of Board of Directors of Alaska State Chamber of Commerce - 1964
Past President of Petersburg Chamber of Commerce - 3 years
Yes - even Past President of Petersburg P.T.A. - 1 year

Since coming to Alaska, I have been connected mostly with the construction, logging and sawmill industries, except for 5 years in the halibut fishing industry.

In 1951, I started the Mitkof Lumber Co. and was president and general manager until 1976 when I retired from active participation in the sawmill operation. Have been the Chairman of the Board since that time, however.

My personal philosphy concerning business is: Full development of our natural resources by private enterprise with as little assistance and/or interference from governmental agencies (both federal and state) as possible.

As to my personal and family life: Married my wife Meredith in Wrangell in 1939. We have 3 children: John and Richard who are Alaska boat owners and fisherman. Kirsti who resides in Bellingham and works in the Teacher Co-op program at Western Washington College.

December 7, 1981

Karen W. Cory
Special Assistant to the Governor
Pouch A
Juneau, Alaska 99801

Dear Ms. Cory:

Enclosed is my resume for the perusal by the legislators and the governor in the matter of re-confirmation to the OSHA Review Board. If for any reason you want more information, please feel free to contact me.

Very truly yours,

Lars Eide

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

22 March, 1982

TO: Senator Anderson
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF MARINE PILOTS

*Capt. Donald J. Oldow, Seward, term expiring 06/01/85

A resume is attached for the above named individual, and I would appreciate hearing from you if you have objections to the confirmation. Thank you.

*Reappointment

4 December 1981

The Honorable President, Senate,
The Honorable Speaker, House of Representatives,
Members, Alaska State Legislature

I am Donald J. Oldow and have been reappointed by Governor Hammond to membership on the Board of Marine Pilots for a term ending June 1, 1985 subject to reconfirmation by the Alaska State Legislature. I, therefore, wish to submit the following for your information.

Born 25 September 1925 in Seattle, Washington and lived most of my early life near Anacortes, Washington. Attended Anacortes High School and two semesters (1942-1943) at the University of Washington in Seattle.

I started my seagoing career at the age of 16 during summer vacation in 1942 on Puget Sound as a seaman. From March 1943 through June 1944 I served as Able Seaman, Quartermaster and Boatswain with the Army Transport Service running to all ports in South Central Alaska, the Aleutian Islands and into the Bering Sea. I attended the U.S. Maritime Service Officers Training School at Alameda, California during the period June-October 1944 where I received my Third Mate of Ocean license after which I sailed in various licensed capacities aboard ships throughout the world for Grace Line, Waterman Steamship Co., R.A. Nicol Co. and Matson Line until 1949. In May 1950, after approximately six months with Puget Sound Tug & Barge Co. towing to Hawaii and Southeast Alaska, I accepted a Third Mate's position with Puget Sound Navigation Co. (Black Ball Line) on the flagship CHINOOK running between Seattle and Victoria B.C., Canada. By November 1950 I was relief Master and Pilot on the run and a permanent Master in 1952. I served as Master and Pilot on this route on various vessels until February 1967 when I resigned as Master of M/V COHO to take a position that had been offered to me previously as Master with Alaska Marine Highways. I served as Master of M/V TUSTUMENA , State of Alaska, from February 1967 through May 1976 based in Seward with routes to Kodiak, Cook Inlet and Prince William Sound.

In May 1976 I resigned my command of TUSTUMENA and joined the Southwest Alaska Pilots Association based in Homer, Alaska but I have retained my home and residence of 15 years in Seward at 315 2nd Avenue.

I have held a Master and Pilot license since 1950 and presently have a federal license as Master of Steam and motor vessels upon oceans, of any gross tons; first class pilot on Puget Sound (excluding Tacoma and Olympia) and the waters of Southeastern, Southwestern and Western Alaska on vessels of any gross tons. I also have Alaska State Marine Pilot License No.AA 0012 issued October 20, 1969.

I have served as Master and Pilot aboard vessels continuosly since 1950 - until 1967 on Puget Sound and since 1967 in Southwest and Southeast Alaska. Since May 1976 I have served full time as Pilot of all types and sizes of vessels throughout Southwestern Alaska. Also, since 1976 I have received advanced shiphandling and pilotage training at the Port Revel Marine Research and Training Center at Grenoble, France and at the Computer Aided Operations Research Facility (CAORF) simulator at the National Maritime Research Center, Kings Point, N.Y. Additionally, I participated in the planning, training of pilots and shipmasters and start-up of the Valdez Alyeska Marine Terminal operations.

I was appointed to the Alaska State Board of Marine Pilots on 15 November 1976 to fill an unexpired term of a resigned member until 1 June 1977 at which time I was reappointed to my first full term which expired 1 June 1981.

I believe I have the training and experience in the marine piloting field to responsibly carry out the duties of a member of the Board of Marine Pilots and with your approval I would like to serve the people of the State of Alaska in this capacity for an additional term.

Sincerely,

Capt. Donald J. Oldow
Box 881
Seward, Ak. 99664

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

24 April, 1981

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senator Committee on Labor and Commerce

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF PUBLIC ACCOUNTANCY

Mr. Michael Cook, Fairbanks, term expiring 4/25/83

Mr. Shelby Stastny, Anchorage, term expiring 5/25/82

Resumes are attached for the above named individuals, and I would appreciate hearing from you by the 4th of May, if you have objections to their confirmation. Thank you.

Personal and Professional Qualifications of

J. Shelby Stastny, CPA

Personal:

Age 42
Married - Five children
Resident of Alaska since January 1971

Education:

University of Utah

- B.S. Accounting
- Cum Laude

Professional:

Arthur Young & Company

- 18 years
- Partner in Charge of Anchorage Tax Department

University of Alaska and Anchorage Community College

- Accounting Instructor 1973 to present

Alaska Society of CPA's

- Instructor in various subjects

Professional Organizations:

Alaska Society of CPA's

- President 1978-1979
- Board of Directors 1976-1980
- Chairman, Taxation Committee 1975-1977
- Chairman, Public Relations Committee 1979-1981
- Distinguished Service Award 1979-1980

American Institute of CPA's

- Member of Council 1978-1979

California Society of CPA's

Anchorage Estate Planning Council

Other Organizations:

Church of Jesus Christ of Latter Day Saints

- Stake High Council
- Bishop 1972-1976

Commonwealth North

- Member, Oil Pipeline Study Committee

Common Sense for Alaska

- President

MICHAEL T. COOK, CPA

Mr. Cook was born in Fairbanks, Alaska in 1938 and attended Fairbanks elementary and secondary schools. He attended Lehigh University in Bethlemen, Pennsylvania and graduated with honors in accounting. While at Lehigh University, he was president of his social fraternity and was elected as a member and president of Beta Alpha Psi, the accounting honorary, and a member of Beta Gamma Sigma, the business honorary.

In conjunction with receiving his degree from Lehigh University, Mr. Cook was commissioned an officer in the U. S. Air Force. He served as a medical administrator at Paine AFB, Washington and in Pakistan until August, 1965, and attained the rank of captain.

He began his professional career in 1960 with Price Waterhouse & Co. prior to his service in the U. S. Air Force. In September, 1965, he returned to Fairbanks to resume his accounting career with the predecessor firm of Main Hurdman & Cranstoun, and was made a partner in that firm in 1968. He became partner in Main Hurdman & Cranstoun in 1969 and is in charge of the Fairbanks office's audit practice.

He served six years as a member of the Board of Directors of the Alaska Society of Certified Public Accountants, is a past president and has been chairman of the Society's Legislative Committee. He was General Chairman of the 1977 Pacific Northwest Conference of Certified Public Accountants held in Fairbanks. He has been a member of the Council of the American Institute of Certified Public Accountants.

Among other activities, he is a past president of the Greater Fairbanks Chamber of Commerce, the president-elect of the Executive Committee of the Midnight Sun Boy Scout Council, is in the Rotary Club of Fairbanks, is a member of the Board of Directors of Alaska Crippled Children & Adults, a past president of the Fairbanks Estate Planning Council, is currently the president of the Midnight Sun Chapter of the Air Force Association and is in the Pioneers of Alaska. He has taught accounting courses for the University of Alaska. He and his wife, Sharon, and their children, Lance, Amy and Sarah, live in Fairbanks, where they are members of Fairbanks Lutheran Church.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

12 April, 1982

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Labor and Commerce Committee has reviewed the following named individual appointed by the Governor to the Alaska Worker's Compensation Board:

Morris M. Langberg, Fairbanks, term expiring 07/01/84

There were no stated objections to confirmation of the above named individual by committee members. This does not necessarily indicate an intention to vote for or against the individual named at the time of the joint session on confirmations.

Sincerely,

Bob Mulcahy, Chairman
Senate Labor and Commerce

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

22 March, 1982

TO: Senator Anderson
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

All these dudes are O.K. by me - I know of nothing detrimental about any of them Sig

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF MARINE PILOTS

*Capt. Donald J. Oldow, Seward, term expiring 06/01/85

A resume is attached for the above named individual, and I would appreciate hearing from you if you have objections to the confirmation. Thank you.

*Reappointment

4 December 1981

The Honorable President, Senate,
The Honorable Speaker, House of Representatives,
Members, Alaska State Legislature

I am Donald J. Oldow and have been reappointed by Governor Hammond to membership on the Board of Marine Pilots for a term ending June 1, 1985 subject to reconfirmation by the Alaska State Legislature. I, therefore, wish to submit the following for your information.

Born 25 September 1925 in Seattle, Washington and lived most of my early life near Anacortes, Washington. Attended Anacortes High School and two semesters (1942-1943) at the University of Washington in Seattle.

I started my seagoing career at the age of 16 during summer vacation in 1942 on Puget Sound as a seaman. From March 1943 through June 1944 I served as Able Seaman, Quartermaster and Boatswain with the Army Transport Service running to all ports in South Central Alaska, the Aleutian Islands and into the Bering Sea. I attended the U.S. Maritime Service Officers Training School at Alameda, California during the period June-October 1944 where I received my Third Mate of Ocean license after which I sailed in various licensed capacities aboard ships throughout the world for Grace Line, Waterman Steamship Co., R.A. Nicol Co. and Matson Line until 1949. In May 1950, after approximately six months with Puget Sound Tug & Barge Co. towing to Hawaii and Southeast Alaska, I accepted a Third Mate's position with Puget Sound Navigation Co. (Black Ball Line) on the flagship CHINOOK running between Seattle and Victoria B.C., Canada. By November 1950 I was relief Master and Pilot on the run and a permanent Master in 1952. I served as Master and Pilot on this route on various vessels until February 1967 when I resigned as Master of M/V COHO to take a position that had been offered to me previously as Master with Alaska Marine Highways. I served as Master of M/V TUSTUMENA , State of Alaska, from February 1967 through May 1976 based in Seward with routes to Kodiak, Cook Inlet and Prince William Sound.

In May 1976 I resigned my command of TUSTUMENA and joined the Southwest Alaska Pilots Association based in Homer, Alaska but I have retained my home and residence of 15 years in Seward at 315 2nd Avenue.

I have held a Master and Pilot license since 1950 and presently have a federal license as Master of Steam and motor vessels upon oceans, of any gross tons; first class pilot on Puget Sound (excluding Tacoma and Olympia) and the waters of Southeastern, Southwestern and Western Alaska on vessels of any gross tons. I also have Alaska State Marine Pilot License No.AA 0012 issued October 20, 1969.

I have served as Master and Pilot aboard vessels continuosly since 1950 - until 1967 on Puget Sound and since 1967 in Southwest and Southeast Alaska. Since May 1976 I have served full time as Pilot of all types and sizes of vessels throughout Southwestern Alaska. Also, since 1976 I have received advanced shiphandling and pilotage training at the Port Revel Marine Research and Training Center at Grenoble, France and at the Computer Aided Operations Research Facility (CAORF) simulator at the National Maritime Research Center, Kings Point, N.Y. Additionally, I participated in the planning, training of pilots and shipmasters and start-up of the Valdez Alyeska Marine Terminal operations.

I was appointed to the Alaska State Board of Marine Pilots on 15 November 1976 to fill an unexpired term of a resigned member until 1 June 1977 at which time I was reappointed to my first full term which expired 1 June 1981.

I believe I have the training and experience in the marine piloting field to responsibly carry out the duties of a member of the Board of Marine Pilots and with your approval I would like to serve the people of the State of Alaska in this capacity for an additional term.

Sincerely,

Capt. Donald J. Oldow
Box 881
Seward, Ak. 99664

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

President Jalmar Kerttula
Alaska State Senate
Pouch V
Juneau, Alaska 99811

11 May, 1981

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Board of Public Accountancy:

Mr. Michael Cook, Fairbanks, term expiring 4/25/83

Mr. Shelby Stastny, Anchorage, term expiring 5/25/82

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

24 April, 1981

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Committee on Labor and Commerce

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF PUBLIC ACCOUNTANCY

Mr. Michael Cook, Fairbanks, term expiring 4/25/83

Mr. Shelby Stastny, Anchorage, term expiring 5/25/82

Resumes are attached for the above named individuals, and I would appreciate hearing from you by the 4th of May, if you have objections to their confirmation. Thank you.

Personal and Professional Qualifications of

J. Shelby Stastny, CPA

Personal:

Age 42
Married - Five children
Resident of Alaska since January 1971

Education:

University of Utah

- B.S. Accounting
- Cum Laude

Professional:

Arthur Young & Company

- 18 years
- Partner in Charge of Anchorage Tax Department

University of Alaska and Anchorage Community College

- Accounting Instructor 1973 to present

Alaska Society of CPA's

- Instructor in various subjects

Professional Organizations:

Alaska Society of CPA's

- President 1978-1979
- Board of Directors 1976-1980
- Chairman, Taxation Committee 1975-1977
- Chairman, Public Relations Committee 1979-1981
- Distinguished Service Award 1979-1980

American Institute of CPA's

- Member of Council 1978-1979

California Society of CPA's

Anchorage Estate Planning Council

Other Organizations:

Church of Jesus Christ of Latter Day Saints

- Stake High Council
- Bishop 1972-1976

Commonwealth North

- Member, Oil Pipeline Study Committee

Common Sense for Alaska

- President

MICHAEL T. COOK, CPA

Mr. Cook was born in Fairbanks, Alaska in 1938 and attended Fairbanks elementary and secondary schools. He attended Lehigh University in Bethlemen, Pennsylvania and graduated with honors in accounting. While at Lehigh University, he was president of his social fraternity and was elected as a member and president of Beta Alpha Psi, the accounting honorary, and a member of Beta Gamma Sigma, the business honorary.

In conjunction with receiving his degree from Lehigh University, Mr. Cook was commissioned an officer in the U. S. Air Force. He served as a medical administrator at Paine AFB, Washington and in Pakistan until August, 1965, and attained the rank of captain.

He began his professional career in 1960 with Price Waterhouse & Co. prior to his service in the U. S. Air Force. In September, 1965, he returned to Fairbanks to resume his accounting career with the predecessor firm of Main Hurdman & Cranstoun, and was made a partner in that firm in 1968. He became partner in Main Hurdman & Cranstoun in 1969 and is in charge of the Fairbanks office's audit practice.

He served six years as a member of the Board of Directors of the Alaska Society of Certified Public Accountants, is a past president and has been chairman of the Society's Legislative Committee. He was General Chairman of the 1977 Pacific Northwest Conference of Certified Public Accountants held in Fairbanks. He has been a member of the Council of the American Institute of Certified Public Accountants.

Among other activities, he is a past president of the Greater Fairbanks Chamber of Commerce, the president-elect of the Executive Committee of the Midnight Sun Boy Scout Council, is in the Rotary Club of Faibanks, is a member of the Board of Directors of Alaska Crippled Children & Adults, a past president of the Fairbanks Estate Planning Council, is currently the president of the Midnight Sun Chapter of the Air Force Association and is in the Pioneers of Alaska. He has taught accounting courses for the University of Alaska. He and his wife, Sharon, and their children, Lance, Amy and Sarah, live in Fairbanks, where they are members of Fairbanks Lutheran Church.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 April, 1981

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Committee on Labor and Commerce

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF PUBLIC ACCOUNTANCY

*Ms. Kaye May, Juneau, term expiring 4/25/84
*Mr Vernon Johnson, Anchorage, term expiring 4/25/84

Resumes are attached for the above listed individuals, and I would appreciate hearing from you by the 24th of April if you have objections to their confirmation. Thank you.

*Reappointed

Kaye A. May
1220 Glacier Ave. #3 2
Juneau, Alaska 99801

Resumé

BIRTHPLACE:

Devils Lake, North Dakota

MARITAL STATUS:

Married to Bruce E. May, S. E. Alaska Manager of Cochran Electric Compnay, Inc.

DEPENDENTS:

None.

EDUCATION:

Graduate of St. James Academy
Grand Forks, North Dakota

EMPLOYMENT:

Self-employed at Channel Bowl, Inc. for the last five years as bookkeeper and office manager. Bookkeeping for Cochran Electric Company, Inc., Juneau Branch, from 1972 to present.

AFFILIATIONS:

Member of:
Soroptimist International of Juneau
Alaska Visitor Association
Juneau Chamer of Commerce
Bowler Proprietor's Assocation of America
National Independent Businessman's Association of America
Office held at present time:
Sgt. at Arms, Alaska State Women's Bowling Association

Mrs. Kaye A. May
1220 Glacier Ave. #312
Juneau, Alaska 99801

June 30, 1980

Honorable Jay S. Hammond
Office of the Govenor
Pouch A
Juneau Alaska, 99811

Dear Govenor Hammond:

I would appreciate your consideration of my appointment as a public member to the board of Public Accountancy. Although I have no connection with this profession, I am interested in the opportunity to serve the citizens of Alaska as a member.

I am a registered voter in the State of Alaska and have resided in Juneau for the past nine years. I am co-owner of Channel Bowl, Inc. in Juneau and because of my duties there as bookkeeper and office manager, I do have some knowledge and interest in the accounting field.

I am available to attend all board meetings as required.

Thank you for your consideration.

Sincerely,

Kaye A. May

Kaye A. May

RESUME

VERNON R. JOHNSON
5310 North Star
Anchorage, Alaska 99502
Tel. (907) 279-8129 (H)

Office: 601 W. 5th Ave., Suite 700
Tel. (907) 276-7401

Date and Place of Birth:	October 26, 1932 Bartlesville, Oklahoma
EDUCATION:	
Elementary/High School	Public School System Bartlesville, Oklahoma
College	University of San Francisco San Francisco, California Bachelor of Science Degree as Accounting Specialist
MILITARY:	U.S. Navy 1952-1956 Electronic Technician Honorable discharge
PROFESSIONAL LICENSES:	Alaska, P.A. No. 77 Alaska, C.P.A. No. 167 California, C.P.A. No. 9159E
EMPLOYMENT HISTORY:	
August 1970 to Present	Peat, Marwick, Mitchell & Co. 601 W. 5th Ave., Suite 700 Anchorage, AK 99501
Position:	Audit Manager
June 1966 to August 1970	Peat, Marwick, Mitchell & Co. 543 W. 3rd Street Fairbanks, Alaska 99701
Position:	Audit Supervisor

October 1965 to June 1966	Peat, Marwick, Mitchell & Co. 736 "G" St. Anchorage, AK 99501
Position:	Senior Accountant
July 1959 to October 1965	Peat, Marwick, Mitchell & Co. San Francisco, California
Position:	Accountant

WORK EXPERIENCE: Twenty years of professional accounting covering a wide range of industries, including:

Retailing
Cattle ranching
Citrus farming
Truck farming
Printing
Oil and gas
Electronic manufacturing
Wholesaling
Banking
Local government
School districts
Not-for-profit organizations

The organizational structures of these clients encompassed proprietorships, partnerships, joint ventures and corporations and ranged in size from very small to national corporations.

Services provided to these clients were auditing and accounting, taxation, and various types of management consulation.

PROFESSIONAL ORGANIZATIONS:

American Institute of Certified Public Accountants
Alaska representative on Farwest Region Legislative Sub-committee

Past President, Alaska Society of CPA's

California Society of CPA's

LECTURE AND TEACHING EXPERIENCE:

University of Alaska, Fairbanks, Div. of Evening School and Correspondence
Instructed: Principals of Accounting

University of Alaska, Anchorage, Sch. of Business & Public Administration
Instructed: Governmental Accounting/Auditing

Vernon R. Johnson

Lecturing and Teaching Exp.

Peat, Marwick, Mitchell & Co.
National Instructor: Governmental Auditing

Alaska Municipal League
Instructed: Elected Official Role in Financial Planning and Control

Municipal Finance Officers Association of Alaska
Lectured on various subjects one or two times each year for the last six years

Alaska School Business Officials
Lectured on various subjects once each year for the last four years

OTHER QUALIFICAITONS FOR REAPPOINTMENT TO BOARD OF ACCOUNTANCY:

My normal professional activities requires that I travel over most of Alaska. I regularly work with clients in Nome, St. Mary's, Bethel, Dillingham, Kodiak, Juneau, Whittier, Anchorage, GlennAllen, and Fairbanks. I regularly consult with others with whom I work regarding problems in other areas of Alaska and/or nationwide. This exposure to all areas of Alaska and U.S.A. provides a broad perspective of the proplems encountered in various geographical locations and economic situations. This wide range of knowledge permits me to more fairly evaluate the impact of any legislation or regulation affecting the accounting profession and the skills an individual needs to be licensed as a CPA in Alaska.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Hohman, Vice Chairman
Senator Ziegler
Senator Fahrenkamp
Senator Rodey

FROM: Senator Mulcahy, Chairman
Senate Labor & Commerce Committee

DATE: February 11, 1981

SUBJECT: Board Confirmations

The attached resume has been forwarded for your review.

BOARD OF MARINE PILOTS

William Barrington, Alaska Maritime Agency, Anchorage

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individual who was appointed by the Governor to the Collection Agency Board:

COLLECTION AGENCY BOARD

Allen D. Shepard, Anchorage, term expiring 1/3/83

There were no stated objections to confirmation of the named individual by committee members. This does not necessarily indicate an intention to vote for or against the individual named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

2 March, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Board of Marine Pilots:

BOARD OF MARINE PILOTS

William Barrington, Anchorage, term expires 1/3/83
David George, Juneau, term expires 6/1/84

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the State Board of Public Accountancy:

STATE BOARD OF PUBLIC ACCOUNTANCY

L. Pete Hogan, Ketchikan, term expiring 4/25/83
Kaye, May, Juneau, term expiring 4/25/81

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Alaska Workmen's Compensation Board:

ALASKA WORKMEN'S COMPENSATION BOARD

David Richards, Juneau, term expiring 7/1/83
Jan Baughman, Fairbanks, term expiring 7/1/83

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

JUNEAU, ALASKA

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Board of Welding Examiners:

BOARD OF WELDING EXAMINERS

Kenneth Lomax, Anchorage, term expiring 12/16/83
Don Delk, Anchorage, term expiring 12/16/85

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau Alaska, 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05. 080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Alcoholic Beverage Control Board:

ALCOHOLIC BEVERAGE CONTROL BOARD

Jeff Smith, Kotzebue, term expiring 1/31/84
William Smith, Anchorage, term expiring 1/31/84
Bill Gordon, Fairbanks, term expiring 1/31/82

There were no stated objections to confirmation of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

Alaska State Legislature

Senate

JUNEAU, ALASKA

March 2nd, 1981

President Jalmar Kertulla
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Pursuant to your instructions, and in accordance with AS 39.05.080, the Senate Committee on Labor and Commerce has reviewed the following named individuals who were appointed by the Governor to the Real Estate Commission:

REAL ESTATE COMMISSION

Lance Youngquist, Juneau, term expiring 1/31/85
Karen Morris, Fairbanks, term expiring 1/31/85

There were no stated objections to confirmations of the named individuals by committee members. This does not necessarily indicate an intention to vote for or against any of the individuals named at the time of the Joint Session on confirmations.

Sincerely,

Bob Mulcahy
Chairman

MEMORANDUM State of Alaska

TO: The Honorable Bob Mulcahy
Senator
Alaska State Legislature

DATE: February 9, 1981

FILE NO:

TELEPHONE NO: 465-3500

FROM: Vicki A. Clayman
Special Assistant
to the Governor

SUBJECT: Résumé for
Legislative
Confirmation

Per my memo of February 2, 1981, attached is the résumé for Mr. William Barrington, Board of Marine Pilots.

Attachment

ALASKA MARITIME AGENCIES

2101 FOURTH AVENUE—SUITE 1410
SEATTLE, WASHINGTON 98121
TELEPHONE 206 623-0520
TELEX 32-8793

P.O. BOX 6224
ANCHORAGE, ALASKA 99502
TELEPHONE 907 243-0714
TELEX 090-25468

P.O. BOX 8075
KETCHIKAN, ALASKA 99901
TELEPHONE 907 225-6156
TELEX 099-55295

P.O. BOX 1170
VALDEZ, ALASKA 99686
TELEPHONE 907 835-2800
TELEX 090-26391

PLEASE REPLY TO: Anchorage

RESUME

William H. Barrington

April 1, 1919:

Born at San de Fuca, Washington

1924:

Accompanied parents to Wrangell, Alaska where my father opened the Barrington Transportation Company on the Stikine River.
We lived in Wrangell each year from April until October from 1925 until 1943, spending the winter months in Washington.
I attended public schools in Wrangell and Oak Harbor, Washington, graduating in May 1936.
I attended the University of Washington and Griffin-Murphy Business College in Seattle during the winters and was employed by the Diamond K. Packing Company, Sinclair's Store, Barrington Transportation Company and Wrangell Lumber Mill until my marriage on January 23, 1944.

February 1, 1944:

Appointed to U.S. Customs Service in Skagway, Alaska and served during the summer of 1945 as deputy collector in charge of the port of Eagle.

October 1945:

Was transferred to the Customs headquarters in Juneau serving as marine, vessel admeasurement, and vessel documentation officer, appraiser and assistant collector of Customs until retiring in February 1964.

March 1964:

Moved to Anchorage, Alaska and was engaged in private enterprise. I was employed by Alaska Maritime Agencies as vessel agent in 1967 and presently am the Western Alaska Manager with offices in ERA Aviation Center Anchorage, Kenai and Dutch Harbor.

William H. Barrington

William H. Barrington

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 April, 1981

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Committee on Labor and Commerce

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF PUBLIC ACCOUNTANCY

*Ms. Kaye May, Juneau, term expiring 4/25/84
*Mr. Vernon Johnson, Anchorage, term expiring 4/25/84

Resumes are attached for the above listed individuals, and I would appreciate hearing from you by the 24th of April if you have objections to their confirmation. Thank you.

*Reappointed

Alaska State Legislature

Senate

Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

April 14, 1981

TO: Senator Mulcahy,
Chairman
Labor and Commerce Committee

FROM: Peggy Mulligan
Secretary of the Senate

The following Governor's appointees for legislative confirmation have been referred to your committee:

BOARD OF PUBLIC ACCOUNTANCY

*Ms. Kaye May, Juneau, term expiring 4/25/84
*Mr. Vernon Johnson, Anchorage, term expiring 4/25/84

Resumes are attached for the above listed individuals.

*Reappointed

w/attch.

Kaye A. May
1220 Glacier Ave. #312
Juneau, Alaska 99801

Résumé

BIRTHPLACE:

Devils Lake, North Dakota

MARITAL STATUS:

Married to Bruce E. May, S. E. Alaska Manager of Cochran Electric Compnay, Inc.

DEPENDENTS:

None.

EDUCATION:

Graduate of St. James Academy
Grand Forks, North Dakota

EMPLOYMENT:

Self-employed at Channel Bowl, Inc. for the last five years as bookkeeper and office manager. Bookkeeping for Cochran Electric Company, Inc., Juneau Branch, from 1972 to present.

AFFILIATIONS:

Member of:
Soroptimist International of Juneau
Alaska Visitor Association
Juneau Chamer of Commerce
Bowler Proprietor's Assocation of America
National Independent Businessman's Association of America
Office held at present time:
Sgt. at Arms, Alaska State Women's Bowling Association

Mrs. Kaye A. May
1220 Glacier Ave. #312
Juneau, Alaska 99801

June 30, 1980

Honorable Jay S. Hammond
Office of the Govenor
Pouch A
Juneau Alaska, 99811

Dear Govenor Hammond:

I would appreciate your consideration of my appointment as a public member to the board of Public Accountancy. Although I have no connection with this profession, I am interested in the opportunity to serve the citizens of Alaska as a member.

I am a registered voter in the State of Alaska and have resided in Juneau for the past nine years. I am co-owner of Channel Bowl, Inc. in Juneau and because of my duties there as bookkeeper and office manager, I do have some knowledge and interest in the accounting field.

I am available to attend all board meetings as required.

Thank you for your consideration.

Sincerely,

Kaye A. May

Kaye A. May

RESUME

VERNON R. JOHNSON
5310 North Star
Anchorage, Alaska 99502
Tel. (907) 279-8129 (H)

Office: 601 W. 5th Ave., Suite 700
Tel. (907) 276-7401

Date and Place of Birth:	October 26, 1932 Bartlesville, Oklahoma
EDUCATION:	
Elementary/High School	Public School System Bartlesville, Oklahoma
College	University of San Francisco San Francisco, California Bachelor of Science Degree as Accounting Specialist
MILITARY:	U.S. Navy 1952-1956 Electronic Technician Honorable discharge
PROFESSIONAL LICENSES:	Alaska, P.A. No. 77 Alaska, C.P.A. No. 167 California, C.P.A. No. 9159E
EMPLOYMENT HISTORY:	
August 1970 to Present	Peat, Marwick, Mitchell & Co. 601 W. 5th Ave., Suite 700 Anchorage, AK 99501
Position:	Audit Manager
June 1966 to August 1970	Peat, Marwick, Mitchell & Co. 543 W. 3rd Street Fairbanks, Alaska 99701
Position:	Audit Supervisor

October 1965 to June 1966

Peat, Marwick, Mitchell & Co.
736 "G" St.
Anchorage, AK 99501

Position: Senior Accountant

July 1959 to October 1965

Peat, Marwick, Mitchell & Co.
San Francisco, California

Position: Accountant

WORK EXPERIENCE: Twenty years of professional accounting covering a wide range of industries, including:

Retailing
Cattle ranching
Citrus farming
Truck farming
Printing
Oil and gas
Electronic manufacturing
Wholesaling
Banking
Local government
School districts
Not-for-profit organizations

The organizational structures of these clients encompassed proprietorships, partnerships, joint ventures and corporations and ranged in size from very small to national corporations.

Services provided to these clients were auditing and accounting, taxation, and various types of management consulation.

PROFESSIONAL ORGANIZATIONS:

American Institute of Certified Public Accountants
Alaska representative on Farwest Region Legislative Sub-committee

Past President, Alaska Society of CPA's

California Society of CPA's

LECTURE AND TEACHING EXPERIENCE:

University of Alaska, Fairbanks, Div. of Evening School and Correspondence
Instructed: Principals of Accounting

University of Alaska, Anchorage, Sch. of Business & Public Administration
Instructed: Governmental Accounting/Auditing

Lecturing and Teaching Exp.

Peat, Marwick, Mitchell & Co.
National Instructor: Governmental Auditing

Alaska Municipal League
Instructed: Elected Official Role in Financial Planning and Control

Municipal Finance Officers Association of Alaska
Lectured on various subjects one or two times each year for the last six years

Alaska School Business Officials
Lectured on various subjects once each year for the last four years

OTHER QUALIFICAITONS FOR REAPPOINTMENT TO BOARD OF ACCOUNTANCY:

My normal professional activities requires that I travel over most of Alaska. I regularly work with clients in Nome, St. Mary's, Bethel, Dillingham, Kodiak, Juneau, Whittier, Anchorage, GlennAllen, and Fairbanks. I regularly consult with others with whom I work regarding problems in other areas of Alaska and/or nationwide. This exposure to all areas of Alaska and U.S.A. provides a broad perspective of the proplems encountered in various geographical locations and economic situations. This wide range of knowledge permits me to more fairly evaluate the impact of any legislation or regulation affecting the accounting profession and the skills an individual needs to be licensed as a CPA in Alaska.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

TO: Senator Rodey
Senate Majority Leader

1 May, 1981

FROM: Senator Mulcahy, Chairman
Senate Committee on Labor and Commerce

We have received no stated objections from any of the members of the Senate Committee on Labor and Commerce regarding the review of Governor's appointees for Legislative confirmation.

Alaska State Legislature

Senate

Office of the Secretary

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

April 24, 1981

TO: Senator Mulcahy
Chairman
Labor and Commerce
Committee

FROM: Peggy Mulligan

The following Governor's appointees for legislative confirmation of appointment to the position noted have been referred to your committee:

BOARD OF PUBLIC ACCOUNTANCY

Mr. Michael Cook, Fairbanks, term expiring 4/25/83
Mr. Shelby Stastny, Anchorage, term expiring 5/25/82

Resumes are attached for the above listed individuals.

Enclosures

Alaska State Legislature

Sena

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

24 April, 1981

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Committee on Labor and Commerce

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF PUBLIC ACCOUNTANCY

Mr. Michael Cook, Fairbanks, term expiring 4/25/83

Mr. Shelby Stastny, Anchorage, term expiring 5/25/82

Resumes are attached for the above named individuals, and I would appreciate hearing from you by the 4th of May, if you have objections to their confirmation. Thank you.

Personal and Professional Qualifications of

J. Shelby Stastny, CPA

Personal:

Age 42
Married - Five children
Resident of Alaska since January 1971

Education:

University of Utah

- B.S. Accounting
- Cum Laude

Professional:

Arthur Young & Company

- 18 years
- Partner in Charge of Anchorage Tax Department

University of Alaska and Anchorage Community College

- Accounting Instructor 1973 to present

Alaska Society of CPA's

- Instructor in various subjects

Professional Organizations:

Alaska Society of CPA's

- President 1978-1979
- Board of Directors 1976-1980
- Chairman, Taxation Committee 1975-1977
- Chairman, Public Relations Committee 1979-1981
- Distinguished Service Award 1979-1980

American Institute of CPA's

- Member of Council 1978-1979

California Society of CPA's

Anchorage Estate Planning Council

Other Organizations:

Church of Jesus Christ of Latter Day Saints

- Stake High Council
- Bishop 1973-1976

Commonwealth North

- Member, Oil Pipeline Study Committee

Common Sense for Alaska

- President

MICHAEL T. COOK, CPA

Mr. Cook was born in Fairbanks, Alaska in 1938 and attended Fairbanks elementary and secondary schools. He attended Lehigh University in Bethlemen, Pennsylvania and graduated with honors in accounting. While at Lehigh University, he was president of his social fraternity and was elected as a member and president of Beta Alpha Psi, the accounting honorary, and a member of Beta Gamma Sigma, the business honorary.

In conjunction with receiving his degree from Lehigh University, Mr. Cook was commissioned an officer in the U. S. Air Force. He served as a medical administrator at Paine AFB, Washington and in Pakistan until August, 1965, and attained the rank of captain.

He began his professional career in 1960 with Price Waterhouse & Co. prior to his service in the U. S. Air Force. In September, 1965, he returned to Fairbanks to resume his accounting career with the predecessor firm of Main Hurdman & Cranstoun, and was made a partner in that firm in 1968. He became partner in Main Hurdman & Cranstoun in 1969 and is in charge of the Fairbanks office's audit practice.

He served six years as a member of the Board of Directors of the Alaska Society of Certified Public Accountants, is a past president and has been chairman of the Society's Legislative Committee. He was General Chairman of the 1977 Pacific Northwest Conference of Certified Public Accountants held in Fairbanks. He has been a member of the Council of the American Institute of Certified Public Accountants.

Among other activities, he is a past president of the Greater Fairbanks Chamber of Commerce, the president-elect of the Executive Committee of the Midnight Sun Boy Scout Council, is in the Rotary Club of Faibanks, is a member of the Board of Directors of Alaska Crippled Children & Adults, a past president of the Fairbanks Estate Planning Council, is currently the president of the Midnight Sun Chapter of the Air Force Association and is in the Pioneers of Alaska. He has taught accounting courses for the University of Alaska. He and his wife, Sharon, and their children, Lance, Amy and Sarah, live in Fairbanks, where they are members of Fairbanks Lutheran Church.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A I D U M

TO: Senator Hohman, Vice Chairman
Senator Ziegler
Senator Fahrenkamp
Senator Rodey

FROM: Senator Mulcahy, Chairman
Senate Labor & Commerce Committee

DATE: February 5, 1981

SUBJECT: Board Confirmations

The attached resume has been forwarded for your review.

BOARD OF WELDING EXAMINERS

Don Delk, Anchorage, term expiring 12/16/85

Brief Resume of Experience of Don H. Delk
in order to apply for a position on the
State Board of Welding Examiners

June 1961 - September 1961 - Machinist's Apprentice
Palm Harbor Garage & Hrdw., Palm Harbor, FL
Engaged in the manufacture and repair of agricultural and fishing industries' machinery and equipment. Operated lathes, milling machines, drills, saws, etc.

September 1961 - July 1966 - Metals Processing Specialist
U.S. Air Force
Engaged in the repair and manufacture of aircraft, missile and support equipment components. Primarily performed shielded metal arc welding, gas tungsten arc welding, oxy-acetylene welding, brazing and soldering. Performed heat treating, chemical treatments and electroplating. Certified under Mil-T-5021D in stainless steels, aluminum alloy and magnesium alloys.

April 1968 - August 1970 - Heliarc Welder
Civil Service, U.S. Army, Fort Richardson, AK
Engaged in the repair of and the manufacturing of components for combat vehicles, weapon systems and support equipment. Performed shielded metal arc welding, gas metal arc welding, gas tungsten arc welding and oxy-acetylene welding, cutting, brazing and soldering.

August 1970 - September 1973 - Aircraft and Missile Welder
U.S. Air Force, Civil Service, Elmendorf AFB, AK
Engaged in aircraft and missile welding and electroplating. Certified under Mil-T-5021D in alloy steels in the shielded metal arc welding, gas tungsten arc welding and oxy-acetylene welding. Certified under Mil-T-5021D in the following alloy groups using gas tungsten arc welding: Stainless steel alloys, nickel based alloys, aluminum alloys, magnesium alloys and titanium alloys.

September 1973 - July 1974 - Industrial Radiographer
Civil Service, U.S. Air Force, Elmendorf AFB, AK
Performed optical, visual, flourescent penetrant, magnetic particle, eddy current, ultrasonic, and radiographic inspections on aircraft and support equipment.

July 1974 - To present - Industrial Radiographer Foreman
Civil Service, U.S. Air Force, Elmendorf AFB, AK
Plan, coordinate and direct the work of approximately six personnel assigned to the Non-Destructive Inspection Laboratory and three personnel assigned to the Spectrometric Oil Analysis Laboratory.

January 1974 - To present - Gas Tungsten Arc Welding Instructor
Anchorage Comm. College, Anchorage, AK
Developed, set up and instruct Gas Tungsten Arc Welding. Instruct students in the theory of GTAW and teach the properties and welding of non-ferrous metals. Bring students proficiency up to the certification level in the laboratory in any alloy group the student desires.

Specialized Education

1961 - Machinist Practices Laboratory, 534 hours,
Dixie Hollins High School, St. Petersburg, Florida

1961 - Metals Processing Specialist, 15 weeks
U.S. Air Force, Chanute AFB, IL

1975 - Non Destructive Inspection Technician, 4 weeks
Chanute AFB, IL

15 credit hours - St. Petersburg Junior College
St. Petersburg, Florida

44 credit hours - Welding Technology
Anchorage Comm. College, Anchorage, AK
Grade Point Average of 3.95

Specialized Experience

July 1972 to Present - Weld Qualifying Official for the Alaskan Air Command - Certify approx. 15 welders per year in six alloy groups under Mil-T-5021D - Perform visual, bend, tensile and radiographic inspections.

Technical Societies

Chairman - Alaska Section of the American Society of Non-Destructive Testing
Treasurer - Alaska Section of the American Welding Society

Weld Qualifier
Certified as a State Welding Qualifier on March 7, 1975 by the State Welding Board.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

M E M O R A N D U M

TO: Senator Hohman, Vice Chairman
Senator Ziegler
Senator Fahrenkamp
Senator Rodey

FROM: Senator Mulcahy, Chairman
Senate Labor & Commerce Committee

DATE: February 11, 1981

SUBJECT: Board Confirmations

The attached resume has been forwarded for your review.

BOARD OF MARINE PILOTS

William Barrington, Alaska Maritime Agency, Anchorage

OK - I based upon what I read, not what I know -

MEMORANDUM State of Alaska

TO The Honorable Bob Mulcahy
Senator
Alaska State Legislature

DATE February 9, 1981

FILE NO

TELEPHONE NO 465-3500

FROM Vicki A. Clayman
Special Assistant
to the Governor

SUBJECT Résumé for
Legislative
Confirmation

Per my memo of February 2, 1981, attached is the résumé for Mr. William Barrington, Board of Marine Pilots.

Attachment

ALASKA MARITIME AGENCIES

2101 FOURTH AVENUE—SUITE 1410
SEATTLE, WASHINGTON 98121
TELEPHONE 206 623-0520
TELEX 32-8793

P.O. BOX 6224
ANCHORAGE, ALASKA 99502
TELEPHONE 907 243-0714
TELEX 090-25468

P.O. BOX 8075
KETCHIKAN, ALASKA 99901
TELEPHONE 907 225-6156
TELEX 099-55295

P.O. BOX 1170
VALDEZ, ALASKA 99686
TELEPHONE 907 835-2800
TELEX 090-26391

PLEASE REPLY TO: Anchorage

RESUME

William H. Barrington

April 1, 1919:

Born at San de Fuca, Washington

1924:

Accompanied parents to Wrangell, Alaska where my father opened the Barrington Transportation Company on the Stikine River.
We lived in Wrangell each year from April until October from 1925 until 1943, spending the winter months in Washington.
I attended public schools in Wrangell and Oak Harbor, Washington, graduating in May 1936.
I attended the University of Washington and Griffin-Murphy Business College in Seattle during the winters and was employed by the Diamond K. Packing Company, Sinclair's Store, Barrington Transportation Company and Wrangell Lumber Mill until my marriage on January 23, 1944.

February 1, 1944:

Appointed to U.S. Customs Service in Skagway, Alaska and served during the summer of 1945 as deputy collector in charge of the port of Eagle.

October 1945:

Was transferred to the Customs headquarters in Juneau serving as marine, vessel admeasurement, and vessel documentation officer, appraiser and assistant collector of Customs until retiring in February 1964.

March 1964:

Moved to Anchorage, Alaska and was engaged in private enterprise. I was employed by Alaska Maritime Agencies as vessel agent in 1967 and presently am the Western Alaska Manager with offices in ERA Aviation Center Anchorage, Kenai and Dutch Harbor.

William H. Barrington

STATE OF ALASKA

THE LEGISLATURE

BUDGET AND AUDIT COMMITTEE

AUDIT DIVISION
POUCH W—ALASKA OFFICE BUILDING

FINANCE DIVISION
POUCH WF—STATE CAPITOL

JUNEAU, ALASKA 99811

February 25, 1981

To: Senator Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee

From: Gerald L. Wilkerson, CPA
Legislative Auditor
Division of Legislative Audit

Subject: Sunset Termination of Alaska Boards
and Commissions

Per your request, I am enclosing the status and termination dates of Alaska activities that have been terminated by law.

The following agencies had a June 30, 1980 termination date and will discontinue at June 30, 1981 unless revived this session:

Collection Agency Board (AS 08.24.011)
Guide Licensing and Control Board (AS 08.08.040)
Board of Governors of the Alaska Bar Association
(AS 08.08.040)
State Board of Parole (AS 33.15.010)

The following agencies have a June 30, 1981 termination date and unless continued by law will have until June 30, 1982 to wind up their affairs:

Board of Welding Examiners (AS 08.99.010)
Alcoholic Beverage Control Board (AS 04.06.010)
Alaska Pipeline Commission (AS 42.06.010)

The following agencies have a June 30, 1982 termination date and unless continued by law will have until June 30, 1983 to wind up their affairs:

Board of Dental Examiners (AS 08.36.010)
Board of Psychologist and Psychological Associate
Examiners (AS 08.86.010)

Board of Electrical Examiners (AS 08.40.010)
Real Estate Commission (AS 08.88.011)
Alaska Renewable Resource Corporation (AS 37.12.010)
Alaska Code Revision Commission (AS 24.20.075)

The following agencies have a June 30, 1983 termination date and unless continued by law will have until June 30, 1984 to wind up their affairs:

State Medical Board (AS 08.64.010)
Board of Nursing (AS 08.68.010)
Board of Marine Pilots (AS 08.62.010)
Alaska Transportation Commission (AS 42.07.011)
Alaska Council on Science and Technology (AS 44.19.181)

The following agencies have a June 30, 1984 termination date and unless continued by law will have until June 30, 1985 to wind up their affairs:

Board of Chiropractic Examiners (AS 08.20.010)
Board of Examiners in Optometry (AS 08.72.010)
Board of Pharmacy (AS 08.80.010)
Board of Public Accountancy (AS 08.04.010)
Board of Barbers and Hairdressers (AS 08.13.010)
State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011)

The following agencies have a June 30, 1985 termination date and unless continued by law will have until June 30, 1985 to wind up their affairs:

Board of Veterinary Examiners (AS 08.98.010)
Alaska Public Utilities Commission (AS 42.05.010)
Board of Dispensing Opticians (AS 08.71.010)

The following agencies have a June 30, 1986 termination date and unless continued by law will have until June 30, 1987 to wind up their affairs:

Board of Nursing Home Administrators (AS 08.70.010)
State Physical Therapy Board (AS 08.84.010)

The Rural Development Council (AS 44.47.160-44.47.190) has a June 30, 1987 termination date and unless continued by law will have until June 30, 1988 to wind up its affairs.

If you need additional information on the "sunset" process, please contact me.

cc: Senator Arliss Sturgulewski
Chairman
Legislative Budget and Audit Committee

Alaska State Legislature

Senate

Office of the Majority Leader

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

DATE: April 30, 1981

TO: Senator Mulcahy, Chairman
Labor and Commerce Committee

FROM: Senator Rodey PMR
Majority Leader

RE: Looking forward to a joint session

As you know, executive appointments are required to be approved by the legislature sitting in joint session. In an attempt to speed up the calendar, I would like to segregate the boards or commissions which may have an appointee who is objectionable to one or more legislators.

Since your committee has been assigned jurisdiction over reviewing certain appointments to boards and commissions, I would appreciate your forwarding the names and positions of any individuals your committee has found objectionable, or not qualified for appointment.

Thank you.

cc: Senate President Kerttula
House Speaker Duncan

PMR/ds

MEMORANDUM

TO: Senator Bob Mulcahy

FROM: Senator Robert H. Ziegler, Sr.

DATE: April 18, 1981

I have no problems with the May and Johnson appointments.

RHZ:lk

3

E.O. 52

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 23, of the Alaska Constitution, I am transmitting an executive order consolidating two existing divisions of the Department of Labor into the new Division of Labor Standards and Safety.

The divisions to be combined are the Division of Wage and Hour and the Division of Occupational Safety and Health. A large portion of the budget of the Division of Occupational Safety and Health was deleted in the last session, necessitating personnel cutbacks. The consolidation will allow program functions to continue by merging various inspection and investigative functions assigned to the Department of Labor.

Sincerely,

Jay S. Hammond
Governor

I. REQUEST

Bill/Resolution No. Executive Order #52

Title Division of Labor Standards & Safety

Requested by Governor Date 12.15.81

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Occupational Safety & Health/Wage & Hour

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

No fiscal impact

NOTE: The FCC budget cuts for Occupational Safety & Health required a significant change in the operation of this program.

IV. DATE 12/15/81 PREPARED BY Judy G. Knight, Special Assistant

AGENCY Labor

PHONE 465-2700

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

SB
19

Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1958; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.050. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340(e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.040(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a), and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 9, 1981

Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:10 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler Fahrenkamp and Rodey.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Chairman Mulcahy mentioned that a line of credit funds should be a matter of separate legislation.

Mr. Don Rhoades, President of Peoples Bank in Anchorage, testified on SB 19, citing the Belt & Daniels report, 1980 Federal Deregulation Act, as to impact on banks (tape reading 035 to 150).

Mr. Rhoades stated that Federal regulations pre-empt state usury laws at $25,000.

Senator Rodey stated that pre-emption for $25,000 will apply April 1, 1983; we are taking ourselves from within a Federal scheme and developing our own usury statute. Banking deregulation allows us to do it. We are exempting the State of Alaska from the Federal Act and wish to set our own usury rate. Senator Rodey moved to amend SB 19 by deleting the figure $100,000 in line 17, page 1 of SB 19 to read $25,000. There were no objections.

SB 19 was passed out of Committee with "Do Pass" recommendations.

Next on the agenda was SB 43 "An Act relating to filing insurance policy forms."

Mr. Don Koch, Alaska Division of Insurance testified on SB 43. He stated that the Division of Insurance ask through the Governor to respond to Federal legislation which will put the Federal Government in a position to regulate medicare supplement insurance, unless the State of Alaska takes certain actions:

1.) Adopt minimum standards for medicare supplemental policies.

2.) Implement loss ratio regulation to examine relationships of benefits to cost - Public Law 96-265 effective July 1, 1982. (tape reading 322 to 546)

Mike Thomas, lobbyist for the American Council of Life Insurance testified on SB 43. He felt that the Federal regulations are not necessarily reflective in SB 43. He also felt there were two problems with the bill:

1.) It gives the Division the authority to set and approve regulations in all phases of insurance.

2.) This bill may not give enough authority to meet requirements. Present statutes do not give authorities. (tape reading 550 to 640)

Chairman Mulcahy felt that further staff research is needed.

The meeting was adjourned by Mulcahy at 3:40 P.M.

COMMITTEE REPORT

SENATE

1/13/81

FURTHER: None

Date: _____

Mr. President:

The Committee on [illegible] has had SB 19

legal rate of interest

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

[ ] do pass [ ] do not pass

[X] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Thomas

CHAIRMAN

S 60 (Rev. 12/78)

AMENDMENT

OFFERED IN THE SENATE: BY: SENATE LABOR and COMMERCE

To: LABOR and COMMERCE SENATE BILL No. 19

HOUSE BILL No. _____

PAGE: 1 LINE: 17

In line 17, delete the figure $100,000 and replace with the figure $25,000.

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
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(907) 586-6000

MEMBERS
NEW YORK STOCK EXCHANGE INC
AMERICAN STOCK EXCHANGE INC
PACIFIC STOCK EXCHANGE INC
MIDWEST STOCK EXCHANGE INC
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 9, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

In the testimony I submitted to you a week ago and in the discussion which followed it was mentioned that the particular problem our industry faces might be best addressed in separate legislation or a separate section of current legislation. Attached is a copy of legislation currently under consideration in the State of Washington which addresses my industry's particular problem.

HOUSE BILL NO. 98

State of Washington
47th Legislature
1981 Regular Session

By Representatives Martinis, Isaacson, Dickie, Scott, Williams, Brekke, King (R), Strutmeyer

Read first time January 21, 1981, and referred to Committee on FINANCIAL INSTITUTIONS & INSURANCE.

AN ACT Relating to commercial lending; and adding a new section to chapter 19.52 RCW.

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

NEW SECTION. Section 1. There is added to chapter 19.52 RCW a new section to read as follows:

The interest charged by any broker-dealer registered under chapter 21.20 RCW and under the federal securities and exchange act of 1934, as amended, shall not be subject to the limitations imposed by this chapter if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to the credit regulations of the board of governors of the federal reserve system, or its successor. Regarding any such loan, a borrower may not plead the defense of usury nor maintain any action thereon or therefor.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

114 SOUTH FRANKLIN STREET
JUNEAU, ALASKA 99801
(907) 586-6000

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 2, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Koken
First Vice President
Foster & Marshall, Inc.

Security brokerage firms and other businesses that extend open lines of credit to their customers finance these loans through borrowings from major banks. The rate that is paid (the broker call rate/prime lending rate) moves up and down or "floats" with money market rates and the policy of the Federal Reserve Bank. In years past these rates have moved in a fairly narrow range and in an orderly manner. However, in the past eighteen months we have seen the broker call rate/prime lending rate make wide swings in very short periods of time. The current Alaska State usury law does not allow the necessary flexibility to keep pace with these interest rate changes and in fact can cause substantial losses to firms that extend open lines of credit.

EXAMPLE: Foster & Marshall is currently extending approximately $2,700,000 in credit to Alaska residents. Under current law the maximum that can be charged is 18%. This is 5% above the 13% rate as set by the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter. Our cost of money (the broker call rate) is now 20%. This means we are losing money at an annual rate of $54,000. Since we normally charge 1% above our cost of money for accepting the risk of these loans and administering them we are actually losing money at an annual rate of $81,000.

It is not the desire of any legitimate lender to take advantage of the borrower; however niether should the law allow the borrower to take advantage of the lender. In this situation the lender has two alternatives: 1) to continue to carry the loans and incur the loss, or 2) to call the loans and drive Alaska residents outside to do their business.

To correct the current situation two suggestions are offered:

1. Change the existing percentage point spread between the Federal Reserve rate and the usury limit to an eight percentage point spread.
2. Change the language in the existing law that now allows the rate to change only once a quarter and allow the rate to "float". This would mean that when the Federal rate went up so would the usury rate and when the Federal rate goes down so would the usury rate and that the maximum allowed by law would never be more than eight points above the effective annual Federal Reserve rate.

Such a change would allow the usury limit to move or "float" in a constant relationship to the rate charged member banks by the 12th Federal Reserve District.

For suggestions as to specific language changes to SENATE BILL NO. 19 please review the attachment.

1. On line 12 delete the word [FIVE] and insert the word <u>eight</u>.

2. On line 12 insert the word <u>effective</u> between the words "the" and "annual".

3. On line 13 insert a period (<u>.</u>) after the word District.

4. At the end of line 13, through lines 14 and 15 and ending on line 16, delete the words [ON THE DAY ON WHICH THE CONTRACT OR LOAN COMMITMENT IS MADE.]

<u>Note</u>: The objective of suggestions 2, 3, and 4 is to eliminate the possible tying of the usury limit on open lines of credit to some contract date that might have established the open line of credit months or even years earlier.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 3, 1981

Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:03 P.M. by Chairman Mulcahy. Those present were: Senators Rodey, Ziegler & Fahrenkamp. Vice Chairman Hohman was in another meeting and arrived late.

Chairman Mulcahy mentioned that we had received a Sponsor Substitute for SB 20.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Senator Rodey addressed SB 19, explaining the intent of the legislation of changing quarterly calculations of interest rates to daily calculations.

Mr. Fred Koken, ~~Director of the Division of Banking~~ Foster & Marshall testified on SB 19. He offered written testimony re: SB 19 and is in favor of changing the usuary law to allow rate to fluctuate with changes of the Federal Reserve Discount Rate. Would also recommend the rate be raised to 8% rather than five percent (tape reading 100 to 599).

Senator Rodey stated that the bill (SB 19) does not really deal with the area of the 'open line of credit'. He also suggested that the limit be lowered to $25,000.

Next on the agenda was SB 20 & SB 35, which are very similar and dealing with Corporate Income Tax.

Senator Ziegler requested more background in the area of corporate income tax relief due to a position paper from the Department of Revenue and the bills possible effect on the present law suit involving the oil companies and the State for liability of income tax.

Commissioner of Revenue, Tom Williams, testified on SB 20 & 35. He spoke in opposition to both bills and listed five (5) policy considerations to be studied by the Committee (tape reading 446 to 702).

Senator Ziegler said he still sees the necessity of some relief to small corporations throughout the State.

Senator Rodey felt small corporations' costs are much higher percentage wise than that of larger corporations, thus the need for the tax relief. He brought up the legal question as to the impact of the present state lawsuit of the corporate income tax to multi-state corporations in connection with this legislation.

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Senator Dankworth addressed this bill, explaining that a labor incident of this summer where minors lost jobs because of a strike. Work orders had to be pulled because of existing regulations that were adopted by the Department of Labor in connection with the Federal Fair Labor Standards Act. However, minors were still permitted to work picket lines.

Dale Cheek, Director of Wage and Hour Division, Department of Labor testified in favor of this legislation. He said the bill would clarify the law (tape reading 704 to 840).

Senator Rodey questioned as to wheather or not it was really necessary for a bill, when possibly repealing a regulation would be all that is necessary.

Earl Deater, Local 302 : State opposition to SB 85 (tape reading 842 to 854).

Scott Edgar from Anchorage, age 15 years, testified in regards to SB 85 and how he was affected by the legal decision by the A.G's office to not allow minors to work during a strike (tape reading 000 to 062).

Paul Edgar from Anchorage, and father to Scott Edger testified on the effect of the strike on his son and thirty-six other minors who were prevented from working or collecting unemployment because of the incident (tape reading 064 to 258).

Mr. Dwayne Carlson, President AFL-CIO testified that the proposed legislation would violate the Child Labor Laws. It would set a precedent for hiring youngsters as strike breakers. He offered a compromise amendment as to not allowing youngsters (minors) to work behind pickets as well as businesses involved in disputes (tape reading 263 to 320).

The meeting was adjourned by Chairman Mulcahy at 4:03 P.M.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

February 2, 1981

SUBJECT: Legal rate of interest -- SB 19
(Work Order Number 12-0492)

TO: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Attn: Linda Otey

FROM: Thomas A. Sofo
Legislative Counsel

You have asked whether SB 19, an act relating to the legal rate of interest in the state, satisfies requirements under the federal usury law enacted April 1, 1980. One of the few things that this memo may be able to accomplish is to more specifically define the question which needs to be considered by the Committee. On March 31, 1980, the United States Congress passed the Depository Institutions Deregulation and Monetary Control Act of 1980, P.L. 96-221, 94 Stat. 132. [Hereafter Monetary Control Act of 1980.] That rather lengthy law involves amendments to more than 100 sections of the United States Code. Various sections of P.L. 96-221 are known as or amended the following statutes:

Bankholding Company Act of 1956;
Banking Act of 1935;
Consumer Checking Equity Act of 1980;
Depository Institutions Deregulation Act of 1980;
Equal Credit Opportunity Act;
Federal Credit Union Act;
Federal Deposit Insurance Act;
Federal Home Loan Bank Act;
Federal Reserve Act;
Federal Trade Commission Act;
Financial Regulation Simplification Act of 1980;
Truth in Lending Act; and
Truth in Lending Simplification and Reform Act.

As can be seen from the above, the scope of the Monetary Control Act of 1980 was extensive. However, from a review of the pertinent provisions of the act, it does not seem that the state must take any specific action with regard to our own usury laws.

One of the subjects covered by the Monetary Control Act of 1980 is the maximum permissible rate of interest which may be charged on certain transactions by certain institutions. The relevance to the state of those scattered provisions is necessarily tied to the nature of the loan and the institution at which it is made. SB 19 is an attempt to amend the general usury law which applies to loan transactions in the state in which the principal amount is $100,000 or less. It should be pointed out that AS 45.45.010(h) and the note immediately following AS 45.45.010 make it clear that many types of transactions and institutions are subject to more specific regulation of maximum interest charges and that those more specific statutes prevail over the language contained in AS 45.45.010(b) which SB 19 is concerned with. The Monetary Control Act of 1980 is an example of federal legislation which more specifically addresses certain types of loan transactions and has the effect of preempting usury laws of this state for those transactions. The following is a list of transactions or institutions which are covered by the Monetary Control Act of 1980:

Federally insured residential mortgage transactions (12 U.S.C. 1735f-7nt);

Business and agricultural loans of $25,000 or more (12 U.S.C. 86a);

State-chartered insured banks (12 U.S.C. 1831(d));

Federally insured savings and loan associations (12 U.S.C. 1730(g));

Federally insured credit unions (12 U.S.C. 1785); and

Small business investment companies (15 U.S.C. 687).

As to each of the entries in the list above, the Monetary Control Act of 1980 has provided for the maximum interest which may be charged and has specifically stated that any state law to the contrary is preempted. The interest rates

which apply since April 1, 1980, except on those loan transactions for which a commitment was made prior to April 1, 1980, are as follows:

Federally insured residential mortgages -- no maximum rate;

Business and agricultural loans of $25,000 or more -- 5 percent above discount rate on 90 day commercial paper at federal reserve;

State-chartered insured banks -- 1 percent above discount rate on 90 day commercial paper at federal reserve;

Federally insured savings and loan associations -- 1 percent above discount rate on 90 day commercial paper at federal reserve;

Federally insured credit unions -- 1 percent above discount rate on 90 day commercial paper at federal reserve; and

Small business investment companies -- as prescribed by regulation by the small business administration or other alternatives which will require further research.

As to each of the preempted areas identified above, the Monetary Control Act of 1980 allows a state to specifically adopt a statute after April 1, 1980, which states explicitly that the state does not want the particular provision of the Monetary Control Act of 1980 which preempts the state usury rate to apply to that state. The only exception to this mechanism to avoid federal preemption is in the federally insured residential mortgage transactions. In that area there is a "window" within which any state action to avoid federal preemption must occur. For federally insured residential mortgages, the state must adopt a law explicitly avoiding the preemptive effect of the Monetary Control Act of 1980 on or after April 1, 1980 and before April 1, 1983.

It is beyond the scope of this memo to address the wisdom in pursuing any state legislation which can avoid the preemptive effect of the Monetary Control Act of 1980. In-depth economic analysis would seem to be warranted before taking any action. However, the timing of such a decision is particularly important in the area of federally insured residential mortgages since

the "window" only remains open until April 1, 1983. The short answer to the question originally posed is that SB 19 does not require further amendment to comport with the federal usury statutes which became effective April 1, 1980. However, as I am sure can appreciate, the issues raised by the Monetary Control Act of 1980 are certainly likely subjects of legislation which could be included in a bill similar to SB 19.

TAS:ljb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

February 19, 1981

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: Deregulation of Interest Rates

Last year, Congress passed the Depository Institutions Deregulation Act of 1980. The purpose of the act was to do away with limitations on interest rates, which were payable on deposits and accounts, and which discouraged persons from saving money. The act is administered by a committee, including members of the Federal Reserve, FDIC, the Federal Home Loan Bank and others. The committee is called the Depository Institutions Deregulation Committee.

The committee was given the charge of doing away with interest rate limitations on deposits in financial institutions. This limitation is known as "Regulation Q." The committee, in doing away with the interest rate limits, will be raising the limitations a certain percentage for the first two 18-month periods, then a half of a percent a year thereafter until the end of the sixth year. During this period of time, the rates cannot exceed the money market rate. After the six-year period, the Regulation Q limitations will no longer exist. During the six-year phase-out period, the committee is to prescribe rules governing the payments of interest and dividends and the establishment of classes of deposits on accounts.

The concerns you mentioned regarding usury rates and the effect that it may cause upon the free-floating interest rates paid on deposits are valid concerns. The usury rate, after a six-year period, may have the effect of limiting the amount of interest that a financial institution could pay on deposits. That is, if the usury rate on loans was set at a level of 17 percent, a financial institution could not pay interest on deposits in the amount equal to 17 percent and stay in business. Therefore, the usury rate may have the effect of limiting what financial institutions could pay their depositors if the rates on deposits were to float free.

Sincerely,

Charles R. Webber
Commissioner

08-H2LH

CRW/jarL

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 19 - by Senator Rodey

"An Act relating to the legal rate of interest; and providing for an effective date."

Changes to 45.45.010(b):

1. Removes quarterly calculations of interest rates and replaces it with daily calculations of interest rates based on day of contract or committment.

2. Repeals (d) - requirement for government notice of quarterly rate of interest to all banks and loan institutions.

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce & Economic Development	Labor & Commerce	SB-19

Department Position

Not opposed

Division Director	Date	Commissioner	Date
Willis Kirkpatrick	1/19/81	Charles R. Webber	1/19/81

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
None of which I am aware	None of which I am aware
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
All Alaska Financial Institution	None of which I am aware

3. Program Effects of Bill

None if passes as proposed.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

Consideration could be given for the removal of all interest rate ceilings. This would let each financial institution compete based on their costs and other competitive factors.

6. Comments:

The present quarterly adjustments do not allow for sudden changes in money market conditions. The daily calculation of the legal rate of interest will allow lenders to quickly adjust their charges as changes in the discount rate occur. AS 45.45.010(d) as stated in the bill must be repealed in order that the lender may quickly calculate the applicable interest rate without the delay of an intervening level of authority. Of necessity, AS 45.45.010 must be self-regulating.

Div. of Banking

01 000 (Rev. 9/80)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811

NOTICE OF MAXIMUM LEGAL RATE OF INTEREST
EFFECTIVE JANUARY 1, 1981 THROUGH MARCH 31, 1981

In compliance with AS 45.45.010(d), the Commissioner of the department gives public notice that the Federal Reserve discount rate prevailing in the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter beginning January 1, 1980 was 13 percent.

AS 45.45.010(b) provides that:

> (b) No interest may be charged by express agreement of the parties in contract or loan commitment dated after June 24, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $100,000 is exempt from the limitation of this subsection.

THEREFORE, effective January 1, 1981, the maximum legal rate of interest which may be charged by express agreement of the parties in a contract or loan commitment of $100,000 or less is 18 percent.

On March 31, 1980, President Carter signed into law H.R. 4986, a bill which makes a number of changes affecting banks and financial institutions and state usury laws. In particular, that bill affects the provision of the Alaska usury statute, AS 45.45.010(b) as follows:

1. The ceiling on interest rates allowable on certain home mortgage loans including mobile homes loans, is preempted starting April 1, 1980, and there is no ceiling set by federal law.

2. The ceiling on interest rates allowable on business and agriculture loans over $1,000 is preempted if that ceiling falls below the ceiling established by the federal law (this provision applies for a period of three years ending at the close of April 1, 1983). Consult the current discount rate from the Federal Reserve Bank in Seattle to determine if preemption has occurred.

Regulations for federally-related mortgage loans have been adopted. See 12 Code Federal Regulations Part 590. For further information relating to the federal legislation, please contact the Alaska Congressional Delegation and refer to Public Laws 96-221 and 96-399.

Julius J. Brecht
Director

08-H14LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 19
Title An Act relating to the legal rate of interest; and providing effec.date
Requested by S. Labor & Commerce Date 1/16/81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0		0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 1/19/81 PREPARED BY Willis F. Kirkpatrick, Dir. of Banking
AGENCY Dept. of Commerce & Economic Development
PHONE 465-2521

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

33-001 (Rev. 12/80

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
205 COLUMBIA STREET
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(206) 344-3000

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

November 19, 1980

Mr. Jim Kelly
State of Alaska Banking Committee
Pouch V
Juneau, AK 99811

Dear Jim:

It was a real pleasure speaking with you this morning, particularly since you left me with a sense of optimism toward an eventual solution of the usury burden. As we discussed on the telephone, this letter serves as an addendum to my November 12 letter. It is written because of the one percent increase in the discount rate and a 1 3/4 percent increase in our cost of funds since the last letter.

Based upon the new interest rates we are now losing $60,750 a year, with an additional $27,000 lost from our normal spread. When reviewing this $87,750 loss from our normal income, Foster & Marshall must make one of two decisions: 1) continue carrying the loans and incurring the loss, or 2) calling the loans and discontinue extending credit until the rates are more favorable. The unfortunate part of the latter alternative is that we're in a highly competitive business and it would be relatively easy for Alaskan residents to redirect their business outside the state of Alaska, and therefore be unencumbered by a usury law. It is these same competitive forces that do not allow us to maintain a high interest rate, based upon a previously stated discount rate, during a period of declining rates.

Because our rate of interest charged clients is based upon our cost of money as opposed to the discount rate, we recommend that the wording in AS 45.45.010(b) be amended to read, ".... more than eight percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District.", and that the eight percentage points be allowed to fluctuate with the discount rate. The state of Alaska is the only state that I know of that formally notifies interested parties of the discount rate; it is generally the responsibility of the financial institution to be aware of this rate.

I have detailed a list of discount rates that were in force from October 2, 1978 to November 17, 1980; these dates aren't necessarily the dates that the rate changed, but are the applicable rates on the days indicated.

October 2, 1978	8%
October 16, 1978	8 1/2%
November 1, 1978	9 1/2%
August 7, 1979	10%
August 31, 1979	10 1/2%
September 19, 1979	11%
October 8, 1979	12%
February 15, 1980	13%
May 29, 1980	12%
June 12, 1980	11%
July 21, 1980	10%
September 26, 1980	11%
November 17, 1980	12%

If I can be of any further assistance please don't hesitate to contact me.

Sincerely,

FOSTER & MARSHALL INC.

Craig H. Abramson
Vice President & Controller

CHA:jb

cc: Mr. Fred Koken

November 12, 1980

Broken Cost Rate

Mr. Jim Kelly
State of Alaska Banking Committee
Pouch V
Juneau, AK 99811

Dear Mr. Kelly:

This letter is written at the request of Mr. Fred Koken, manager of our Juneau office, concerning the impact of the Alaska state usury law upon Foster & Marshall's profitability and our recommendations for possible change. This opportunity for voicing our concerns and opinions is very much appreciated.

At this writing our average cost of money is 15 1/2%, and the maximum amount that we can charge our customers to whom we have extended credit in the State of Alaska is 15%. With $2,700,000 in credit extended to Alaskan residents, this equates to a $1,125 loss on a monthly basis ($13,500/annual). Since we normally earn approximately 1% on credit extended, this is really a $3,375/month ($40,500/annual) loss from our normal operations, and the disparity between our average cost of money and the state usury is sometimes greater than this 1/2%.

I understand you are considering some alternatives to the present usury policy. The alternative of reducing loans exempt from the usury law from $100,000 to $50,000 does not benefit us since most of our loans are in the $5,000-25,000 range. The ideas of eliminating the usury law or increasing the amount that may be charged in excess of the discount rate are very attractive to us (if that increase is 8% or more). Another alternative worth considering is allowing the usury rate to fluctuate with the discount rate; at least for us this is very practical, since all we have to do is call the local Federal Reserve Bank and ask what the current discount rate is every time our cost of money changes.

If I can be of any assistance in this matter or if you would like to pursue anything that has been discussed in this letter, please don't hesitate to contact me. I can be reached at 206/344-8530.

Sincerely,

FOSTER & MARSHALL INC.

Craig H. Abramson
Vice President & Controller

CHA:jb

cc: Mr. Fred Koken

The Depository Institutions Deregulation & Monetary Control Act of 1980 - has an override clause which allows for States to stop intervention of usury laws by the Federal Government if dealt with by April 1, 1983.

For an effective override, States must amend usury laws by specifically including terminology referring to the title of the Act and also ~~clearing~~ clearly stating that the state is overriding the preemption.

TITLE V—STATE USURY LAWS

The Senate amendment contains various amendments providing for Federal overrides of state usury ceilings on business, agricultural and mortgage loans. Simular provisions were enacted as part of Public Law 96-161.

The House receded with an amendment which contains the following provisions:

State usury ceilings on first mortgage loans made by banks, savings and loans, credit unions, mutual savings banks, mortgage bankers and HUD-approved lenders under the National Housing Act will be permanently preempted, subject to a right of affected states to override the preemption if they act within 3 years.

State usury ceilings on business and agricultural loans above $25,000 made by any person will be preempted for 3 years, subject to a right of affected states to override the preemption. A ceiling of 5 percentage points above the discount rate (including any surcharge) in the Federal Reserve district where the institution is located will apply to such loans. The surcharge is to be included in computing the ceiling as long as it is prescribed by the Federal Reserve, regardless of whether or not it is actually collected against any institution.

State usury ceilings on all loans made by Federally insured depository institutions (except national banks), and small business investment companies will be permanently preempted subject to the right of affected states to override at any time and a ceiling of 1 percentage point above the appropriate Federal Reserve discount rate will apply, except to transactions subject to the preemptions of usury ceilings on mortgage loans and on business and agricultural loans above $25,000. Separate usury limits, administered by the Small Business Administration, will apply to small business investment companies.

In order for a state to override a federal preemption of state usury laws provided for in this title the override proposal must explicitly and by its terms indicate that the state is overriding the preemption. Under this requirement the state law, constitutional provision, or other override proposal must specifically refer to this Act and indicate that the state intends to override the federal preemption this Act provides. Since each of the bill's federal preemptions provides for a separate right of state override, the state's override proposal would be required to refer to the specific preemption, such as that on mortgage loans, on business and agricultural loans over $25,000, or that which permits federally-insured depository institutions to charge 1 percent over the Federal Reserve's discount rate on any loan.

Business & Agricultural loans: Intervention of Fed. law will lock usury ceiling of loans only after $25,000. Rate will be 5% above discount rate including any surcharge.

Requirements for states' override →

SB
20

Part 2. Taxes.

Chapter
21. Oil and Gas Corporate Income Tax (§§ 43.21.010 — 43.21.120)
23. Permanent Fund Dividends (§§ 43.23.010 — 43.23.100)
45. School tax (Repealed)
75. Fisheries Taxes (§§ 43.75.010 — 43.75.140)
76. Salmon Enhancement Tax (§§ 43.76.010 — 43.76.030)

Chapter 20. Alaska Net Income Tax Act.

Article
1. Persons Subject to Tax (§§ 43.20.010 — 43.20.045)

Article 1. Persons Subject to Tax.

Section
11. Tax on individuals, fiduciaries, and corporations
12. Limitation on application of chapter; credits
13. Individual tax credits
15. [Repealed]
16. Sharing of corporate income tax revenue with municipalities
17. [Repealed]
21. Internal Revenue Code adopted by reference
30. Returns and payment of taxes
31. Taxable income of residents; deductions; exemptions
33. [Repealed]
35. [Repealed]
36. Federal tax deductions and credits
37. Trade or business energy conservation credit
38. [Repealed.]
39. [Repealed.]
40. Income from sources in the state
45. [Repealed]

Sec. 43.20.011. Tax on individuals, fidicuaries, and corporations. (a) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(b) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(c) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 percent of taxable income, and a surtax which is equal to 4.0 percent of taxable income, except that the tax on a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with AS 43.21. For tax years beginning after December 31, 1979, the surtax exemption is $50,000. For controlled corporations described in secs. 1561 — 1563 of the Internal Revenue Code only one surtax exemption may be allowed for the controlled group.

(f) Repealed by
ch 70 SLA 1975;
1980; am § 10 ch

Effect of amendm
amendment added a fo
of subsection (e).

Section 8, ch. 113, S
1980 amendment, effe
and retroactive to Ja
former subsection (c
changes in the tax co
Sections 9 and 10 of ch.
subsection (d) and sub
11 of ch. 113, effective
retroactive to Januar
former subsection (f).

The second 1980 am
September 25, 1980 and
uary 1, 1980, repealed
and (f), concerning
individuals and fiducia

The third 1980 am
September 25, 1980,
January 1, 1979, made

Sec. 43.20.012.
The tax imposed b
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ter in order to recei
1980; § 2 ch 2 SSS

Effective date. — S
SSSLA 1980, and § 11, c
provide that this sec
September 25, in acc
01.10.070(c). Section 12
that this section is retro
1, 1980, and § 10 of ch

Sec. 43.20.013. I
uary 1, 1981] A re
exceed $50 for

(1) A contributi
organization for use

(A) for a political

(i) President or V
the candidate will b

(ii) United States

(iii) United State

(iv) governor or li

(v) the Alaska leg

(vi) delegate to ar

(vii) electoral conf
or

fact. Where the state, to its detriment, relying on that lack of notice, as it reasonably could, failed to institute the statutory mechanism for collection of additional taxes, the taxpayers are estopped from asserting the protection of the statute of limitations embodied in AS 43.20.200(b). Stevenson v. Burgess, Sup. Ct. Op. No. 1514 (File No. 2791), 570 P.2d 728 (1977).

Repealed. **Sec. 43.20.031. Taxable income of residents; deductions; exemptions.** (a) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(b) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(c) An affiliated group of corporations may make or the commissioner may require them to make a consolidated return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, Internal Revenue Code secs. 1501 — 1552, as amended, apply.

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) A corporation which is a member of a group of unitary corporations which collectively has income from business activity taxable both inside and outside the state, or income from other sources both inside and outside the state, shall determine its income from sources in this state by use of the combined method of accounting.

(am § 1 ch 8 SLA 1978; am § 235 ch 100 SLA 1980; am §§ 14 — 17 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Revisor's note. — For the specific provisions detailing the handling of the minimum deduction and refund procedures for 1977, see secs. 3 — 5, ch. 8, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Cross reference. — As to tax exemption for permanent fund dividends, see AS 43.23.090.

Effect of amendments.

The 1978 amendment added paragraph (4) of former subsection (a).

Section 235, ch. 100, SLA 1980, the first 1980 amendment, effective January 1, 1981, in former subsection (f), inserted "who is a resident of the state" and substituted "$100" for "$50" near the beginning of the subsection.

Sections 14, 15, and 17, ch. 113, SLA 1980, the second 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1980, rewrote paragraph (3) of former subsection (a), in subsection (c), deleted "or combined" following "make a consolidated" in the first sentence, and added subsection (i). Section 16 of ch. 113, effective June 21, 1980, and retroactive to January 1, 1977, added the second sentence in former subsection (h).

The third 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1980, repealed subsections (a), (b), (f), (g), and (h).

The fourth 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

As the rest of the section was not affected by the amendments, it is not set out.

Editor's note. — Section 52, of this Act, effective June 21, 1980, makes sections 14, 15, and 17 of the Act applicable to tax years beginning after December 31, 1979.

For legislative findings and purpose of the third and fourth 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

add new section

Sec. 43.20.033. Taxable income of fiduciary.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980, effective September 25, 1980.

Editor's note. The repealed section derived from § 18, ch. 113, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Legislative history report. — For report on ch. 8, SLA 1978 (HB 662), see 1978 House Journal pp. 110, 173; Senate Journal, p. 243.

Sec. 43.20.035. Taxable income of nonresidents and part-year residents.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980, effective September 25, 1980.

Editor's note. — The repealed section derived from § 6, ch. 70, SLA 1975; § 2, ch. 8, SLA 1978; § 1, ch. 64, SLA 1980; § 19, ch. 113, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980

Sec. 43.20.036. Federal tax deductions and credits.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(am § 3 ch 22 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Effect of amendments. — The first 1980 amendment added former subsection (i).

The second 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1980, repealed subsections (d) — (i).

The third 1980 amendment, effective September 25, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — For legislative findings and purpose of the second and third 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.037. Trade or business energy conservation credit [Effective January 1, 1981]. (a) A person engaged in a trade or business is allowed as a credit against the tax due under this chapter 35 percent of the cost of

VECO, INC.
5151 FAIRBANKS STREET • ANCHORAGE, ALASKA 99503 • PHONE (907) 276-2010

March 4, 1981

Senator Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

VECO, Inc. is an oil field services company and employs some 1400 people in the State of Alaska. We support the "Alaska Support Industry Allian e" in the repeal of corporate income taxes, A.S.43, Chapter 20, including the special oil and gas income tax A.S.43, Chapter 21.

Sincerely,

R. V. Christ
President

RVC:VJM:lh

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 20 by Senator Rodey

"An Act relating to corporate income taxes: exempting a portion of the income of a corporation from taxation under the Alaska Net Income Tax Act and repealing the surtax exemption under that Act; and providing for an effective date."

- SB 35 by Senator Ziegler & Bradley

"An Act relating to corporation income taxes under the Alaska Net Income Tax Act and exempting a portion of the income of a corporation from taxation under that Act; and providing for an effective date."

Figures based on returns filed in 1979 with assumption that 1980 figures will be relatively the same. Total estimated amount collected from corporate income taxes for 1981 = 35 million and 1982 = 36 million dollars.

SB 20		SB 35	
Exemption for corporations from income tax	$150,000.00	Exemption for corporations from income tax	$250,000.0
Repeals Surtax Exemption		Retains Surtax Exemption	
Repeals sec. 43.20.031 - Duplicate language covered under 43.20.033 (b) & (c)		Repeals sec. 43.20.031 - same as SB 20	
Retroactive clause to Jan. 1, 1981 on corporate exemption		Retroactive clause to Jan. 1, 1981 on corporate exemption	
43.20.031(repealed above) is retroactive to Jan. 1, 1981		43.20.031 (repealed above) is retroactive to Jan. 1, 1981	
Effective Date Clause - immediately		Effective Date Clause - immediately	
Returns exempt from income tax equal to 4,936 returns	90.23%	Returns exempt from income tax equal to 5,096 returns	93.17%
Repeal surtax exemption=34% eliminated		Retain surtax exemption=45% eliminated	
FY 82 revenue losses	12.2 M	FY 82 Revenue losses	16.1 M
FY 83 "	14.6 M	FY 83 "	19.4 M
FY 84 "	17.3 M	FY 84 "	22.9 M
Approx. 94% corporate returns exempt		Approx. 96% corporate returns exempt	

FIGURES BASED ON ANNUAL AMOUNT OF 5,470 RETURNS.....

SB 20

Sec 1, AS 43.20.011(e) amends percentage of taxes from 5.4 to 9.4. and repeals surtax of 4.0%. Tax on a corporation engaged in transportation of crude oil or natural gas shall be determined and paid in accordance with A.S. 43.21.

SB 20
Section 43.20.033 (a) provides for $150,000 exemption.

SB 35
Section 43.20.033 (a) provides for $250,000 exemption.

SB 20

Section 43.20.033 (b) is the same as SB 35

SB 20
43.20.033 (c) is the same as SB 35.

SB 20
43.20.033 (d) is the same as SB 35.

43.20.031 is repealed in both SB 35 and SB 20.

SB 20
Sections 1-3 retroactive 1/1/81 and apply to tax years beginning 12/31/80

SB 35
Sections 1-2 retroactive 1/1/81 and apply to tax years beginning 12/31/80.

Immediate effective date same in both bills.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 31, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor & Commerce Committee
Room 119 - Capitol Building
Juneau, Alaska

Re: Senate Bill No. 20

Dear Senator Mulcahy:

Senate Bill No. 20, an Act relating to corporate income taxes; exempting a portion of the income of a corporation from taxation under the Alaska Net Income Tax Act and repealing the surtax exemption under that Act, was introduced in the Senate on January 13, 1981 and was referred to the Senate Labor & Commerce and Finance Committees.

For the consideration of the Senate Labor & Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary Jenkins, Director, Audit Division and Mr. Lance Hovig, Economist, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

cc: The Honorable Don Bennett
The Honorable H. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Lance Hovig, Economist
Research Section
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 20
Title An Act relating to corporate income taxes
Requested by R. D. Stevenson Date 1/30/81

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection And Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memorandum dated 1/30/81 to Mr. R.D. Stevenson

IV. DATE January 1, 1981 PREPARED BY Gary L. Jenkins, Director
AGENCY Revenue
PHONE 465-2320

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

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins
Director
Audit Division

SUBJECT: SB 20

This bill would provide for an exemption for corporations subject to the income tax imposed by AS 43.20 of $150,000. This proposed total exemption from tax would replace the current surtax exemption which is currently in the law. The surtax exemption served to reduce the rate on the first $50,000 of taxable income to 5.4% while all taxable income over $50,000 is subject to the full rate of 9.4%.

In attempting to ascertain the effect of this exemption I have reviewed the filing information for the returns filed in 1979. The information for 1980 is not yet available, however, the data related to the number of returns which are filed in the various taxable income levels should remain relatively constant. If this exemption were enacted into law, 90.23% of the returns which reported taxable income would be exempt from any tax. The actual effect of this exemption would be tantamount to a repeal of the tax except for the very large domestic corporations and the multistate corporations which do business in Alaska.

Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayers would be the multistate corporations who are doing business in Alaska.

It is recommended that very careful review be given to any legislation providing exemptions from the imposition of the corporate income tax.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 20
Title
Requested by Senate Labor and Commerce Date January 22, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND		(12.2)	(14.6)	(17.3)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have. Although incomplete, the data is the best that we have to date. For lack of more complete data, it was assumed that the data is a representative sample. Preliminary analysis indicates that, when repealing the surtax exemption and exempting the first $150,000 of taxable income, approximately 34 percent of net corporate income taxes would be eliminated. The revenue losses would be about $12.2 million in FY82, $14.6 million in FY83 and $17.3 million in FY84. Approximately 94 percent of corporate returns would be totally exempt from the Alaska income tax. However, other taxes such as personal holding company taxes, taxes from recomputing prior year investment tax credits and minimum taxes on tax preference items would be payable.

IV. DATE January 22, 1981 PREPARED BY Lance Rovig, Economist LRR
AGENCY Revenue
PHONE 465-2390

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

SB

31

MEMORANDUM State of Alaska

TO: Michael Thill
Committee Aide
Senate Labor & Commerce Committee

DATE: March 18, 1981

FILE NO:

THRU: Pete Jeans, Deputy Commissioner
Department of Commerce & Economic Development

TELEPHONE NO:

FROM: Harry Treager, Director
Division of Occupational Licensing

SUBJECT: CSSB 31

The Department of Commerce and Economic Development has reviewed your requested changes to SB 31, and the proposal of the Southeast Alaska Marine Pilots' Association proposed pension plan proposal.

This department's position remains unchanged, as outlined in Commissioner Webber's letter of January 20, 1981 to the Honorable Bob Mulcahy.

Additionally, CSSB 31 would increase the State's liability and spending if a proposal, as submitted by the Southeast Alaska Marine Pilots' Association, was enacted or suggested as a foundation of a pension plan.

The State's liability remains since the selection of the Pilot Fiduciary Agent Committee and its related activities would be made by the Marine Pilots Board as proposed.

Attached for your perusal is a copy of the position paper and Fiscal Note as previously submitted by this department.

This department cannot support Senate Bill 31 as presently proposed.

HDT/val24H16

Attachments

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M: 9 March, 1981

TO: Mr. Harry Treager
Director, Division of Occupational Licensing
Department of Commerce and Economic Development

FROM: Michael Thill, Committe Aide
Senate Committee on Labor and Commerce

Enclosed you will find a proposed committee substitute for SB 31, which your division had examined for the preparation of a Bill Analysis and Fiscal Note. I have included some additional information provided by the S.E. Alaska Pilots Association for the implementation of their proposed pension plan. A position paper and revised fiscal note from you would be appreciated.

Secondly, I would like to request some information from you pertaining to HB 55 (temporary licensing of Veterinarians) which we have recently received in our committee. I would like to request a fiscal note and a position paper from your division, and would like to know the frequency of scheduled examinations, the number of required exams, and the duration of time before the results of those examinations are released. Could you also tell me approximately how many prospective candidates for temporary licensing we are impacting? Thank you for your attention to this matter.

Memo received 3-12-81

ASPER ✓

Original sponsors: Ziegler, Bradley, Colletta et al by request

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

CS FOR SENATE BILL NO. 31 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to a pension plan for Alaska pilots; and providing for an effective date."

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

* Section 1. AS 08.62.040 is amended by adding a new subsection to read:

(c) The board may, by regulation, establish a pension plan to provide pension benefits to retired or disabled pilots and to the surviving spouses of deceased pilots. If a pension plan is established, it shall be financed from pilotage fees imposed under this chapter.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10-070(c).

PROPOSED PILOT PENSION PLAN
Alaska Board of Marine Pilots

Section I. TITLE

There is hereby established an Alaska Marine Pilot Pension Plan.

Section II. PURPOSE

All amounts generated by the pension plan may only be used to pay pensions to retired pilots, disabled pilots and widows of pilots.

Section III. ADMINISTRATION

(a) The pension plan will be administered and all benefit payments will be made by a fiduciary agent selected by the Pilotage Fiduciary Agent Committee. The committee shall establish the agent's compensation for services rendered, make appropriate determinations with regard to allowable expenses to the agent, establish and require appropriate fiduciary bond coverage for the agent, and make annual audit reviews of the agent's performances under his hire for their use in determining the continuation of the hire and the agent's compliance with the requirements of this plan together with an appropriate report thereon to the Board of Marine Pilots in connection with the annual review of the plan required under Section VIII. All such services of the committee will be without compensation, save that the committee shall be entitled to be reimbursed for its out-of-pocket expenses incurred in the performances thereof, which payment will be covered out of the revenues collected pursuant to the plan.

(b) Except for the collection of revenues in accordance with Section VI, the pilots will not be permitted to exercise any control of whatsoever kind or nature over the operation, administration or management of the plan.

(c) All revenues pursuant to the plan will be collected by the pilots at no cost to the State, Board of Marine Pilots or Pilotage Fiduciary Agent Committee and will be transmitted monthly to the fiduciary agent. Pilots who are members of an established pilot association shall be entitled to have their association collect such revenues for the account of the pilot and disburse the same over to the fiduciary agent. Such revenue will not be considered income to the pilots and will not be considered as part of the tariffs and charges otherwise collected by them as established from

time to time by the Board of Marine Pilots.

(d) The Pilotage Fiduciary Agent Committee will consist of three (3) pilots licensed under the Alaska Marine Pilotage Act (AS 08.62.010, et seq.) who are actively engaged in the pilotage of vessels subject to said Act and three (3) agents or managers of vessels subject to said Act. Not more than one (1) pilot and one (1) agent or manager may be selected from the same judicial district, and all members of the committee shall be residents of the State. The Marine Pilot Board shall appoint the committee members, and the first members will be initially appointed for terms of one (1), two (2) and three (3) years as selected and designated by the Board.

(e) The fiduciary agent shall see to the collection of the revenues authorized under this plan, verification of the correctness of the charges exacted, computations required under Section VI of this plan, presentation of same to the Board of Marine Pilots, and to the disbursement of benefits authorized by the plan. The agent shall also be empowered and obligated to impress the lien for uncollected revenues provided for under AS 08.62.170.

Section IV. PENSION TERMS

(a) (1) Each retired or disabled pilot shall be entitled to receive, as a monthly pension, an amount equal to $_____ multiplied by the number of full years of service credit he performed as a pilot licensed under the Alaska Marine Pilotage Act. This base rate is to be adjusted annually according to the average U. S. Government cost of living index for Southeastern Alaska.

(2) A pilot who retires or becomes disabled may not begin to receive a pension until the benefit year next following the date on which h retires or becomes disabled.

(3) A retired pilot may not receive benefits pursuant to the pension plan in any benefit year unless his resignation as an active pilot was submitted in writing to the Board of Marine Pilots prior to December of the immediately preceding calendar year. His resignation will become effective no later than the last day of the month preceding the start of such benefit year.

(4) If a retired or disabled pilot who is receiving a pension dies without a wife surviving him, his heirs at law or his designated successors in

interest, as the case may be, shall be entitled to receive the proceeds of the pension for the remainder of the benefit year, after which time benefit payments and eligibility therefor will automatically cease and expire.

(b) (1) The widow of a deceased pilot who would be eligible for a pension pursuant to Subdivision (c) of Section V shall be entitled to receive as a monthly pension an amount equal to $_____ multiplied by the number of full years of service credit her deceased husband performed as a pilot licensed under the Alaska Marine Pilotage Act. This base rate is to be adjusted annually according to the average U. S. Government cost of living index for Southeastern Alaska.

(2) If a retired or disabled pilot receiving a pension dies, his widow shall be entitled to continue to receive the full pension to which her deceased husband was entitled for the balance of the benefit year, after which she shall be entitled to receive the amount specified in Paragraph (1) of this subdivision.

(3) When a widow receiving a pensions dies, her heirs at law or her successors in interest, as the case may be, shall be entitled to receive the proceeds of the pension for the remainder of the benefit year, after which time benefit payments and eligibility therefor will cease and expire.

(c) For the purpose of the computations described in Paragraph (1) of Subdivision (a) of this section, the total months of service worked each year under the Alaska Marine Pilotage Act are to be added together and divided by twelve to obtain the number of full years credit. A minimum of fifteen (15) days in a work status in any month is required for one (1) month credit.

Section V. ELIGIBILITY

(a) A pilot shall be eligible for the pension provided in Section IV if he meets all of the following requirements:

(1) Held an Alaska Marine Pilot's license after the _____ day of _____, 19___, and served at least 120 days out of each year for five (5) years in that capacity.

(2) Retired after December 31, 19___.

(3) Is at least 62 years of age.

(b) A disabled pilot who has served at least five (5) years as a pilot as outlined in Paragraph (1) of Subdivision (a) in this section shall be eligible for the pension provided in Section IV if it has been determined by the Board of Marine Pilots, based upon competent medical evidence, that such pilot is unable to perform the duties of a pilot.

(c) A widow of a deceased pilot shall be eligible for the pension provided in Subdivision (b) of Section IV if her deceased pilot husband died after January 1, 19___ and if he had held a license as a pilot and served at least five (5) years as outlined in Paragraph (a) of Subdivision (a) in this section.

Section VI. REVENUES & BENEFIT COMPUTATIONS

(a) In addition to and concurrently with the basic pilotage rates established by the Board of Marine Pilots from time to time, a charge will be levied for pilotage services at a rate necessary to provide the benefits to be paid out pursuant to the pension plan. The additional rate will be determined as follows:

(1) On December 1 of each year, the number of persons eligible to receive benefits under the plan, their identities, the amount each will be entitled to receive, and the total amount to be paid out to all such persons during each month of the next benefit year, together with the monthly costs of administering the plan for the ensuing year, will be determined by the fiduciary agent.

(2) After the total benefit amounts to be paid out monthly under the plan have been determined, together with the monthly operating costs, the rate necessary to provide that amount each month shall be calculated. The rate will be based upon the volume of shipping handled by pilots under the Alaska Marine Pilotage Act, in or out of each port or in each cruise area, in gross registered tons or advertised tons, whichever is greater, for the fiscal year ending the previous September 30. The rate will be expressed as mills per gross registered or advertised ton, whichever is greater, and will be calculated to the nearest one-hundredth of a mill.

(3) If the total amount to be paid out yearly will exceed three-fourth (3/4) mills per ton per eligible person, inclusive of operating costs of the agent, the rate will be set at such amount as

will limit the pay-out to three-fourth (3/4) mills per ton per eligible person, inclusive of operating costs of the agent, and the benefits to eligible persons reduced accordingly.

(b) The rate determined pursuant to Paragraphs (1) and (2) of Subdivision (a) above will become effective the first day of the following calendar year and will be in effect throughout the year.

(c) Revenues for any month or year are the amounts to be received pursuant to the pension plan for pilotage during that month or year.

(d) Benefits pursuant to the new rate will be paid commencing in February of each year and continue through and include January of the following year. The period during which the benefits are paid is the benefit year.

Section VII. PAYMENT OF BENEFITS

The benefits actually paid out each month to all retired and disabled pilots, and to widows of deceased pilots, together with costs of administration, will be equal to the revenue during the preceding month. The net revenue after administration expense, whether greater or lesser than the aggregate pensions to which such persons are entitled, will be paid to them in proportion to the relative amounts to which they are entitled.

VIII. PENSION PLAN REVIEW

The Pilotage Fiduciary Agent Committee shall annually review the pension plan and make any recommendations to the Board of Marine Pilots it deems necessary for changes in the plan.

Section IX. MISCELLANEOUS

For the operation of the plan during the calendar year 19___ and each year thereafter, the following will apply:

(a) The fiduciary agent will be selected on or before August 31, 19___.

(b) The calculations described in Section VI shall be completed no later than and the rate imposed on January 1, 19___, if applicable.

(c) The first payment of benefits pursuant to the pension plan will be made in February 19___, if appli-

cable.

(d) Letters of resignation of those pilots seeking to receive benefits commencing January 19___ shall be submitted to the Board of Marine Pilots prior to December 1, 19___.

(e) The fiduciary agent shall provide for appropriate written designation of a successor in interest for each pilot and widow of deceased pilot. If a pilot or pilot's widow dies without such a designation having been made and received by the fiduciary agent, the agent shall withhold payments to the decedent's heirs at law until he has received a certified copy of a determination of heirship from a court of competent jurisdiction. If no such proof is received by the agent within _____ of the date of decedent's death, all post-death benefit payment eligibility will automatically terminate retroactive to the date of death of the decedent.

Section X. ENACTMENT DATE

This plan is to begin the _____ day of _____, 19___.

CLC:ce:st
29.039.02
S2/V6

January 20, 1981

Honorable Bob Mulcahy
Chairman, Senate Labor and
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 31

The Department of Commerce and Economic Development has reviewed SB 31, relating to a marine pilot pension plan and liens for payment of pilotage fees. Upon advice from Harry D. Treager, Director, Division of Occupational Licensing, the department opposes SB 31, as presently written, for the following reasons:

Section 1. AS 08.62.040(c):

1. Liability of the State to maintain a special interest pension plan affecting a selected industry.
2. Present attitude and concensus of this Administration is less government involvement and regulations of private industry.
3. Cost of a pension program and its administration would result in additional cost to consumers and government, e.g., AS 08.62.040(A)(4) "...and pay for audits whenever an audit is necessary to collect information needed to apply the standard in regulations."
4. Current number of marine pilots this bill would affect is seventy-two (72). Approximately 16 pilots are out-of-State residents.
5. SB 31 is unclear as to source of funding "...the board shall finance it from pilotage fees imposed under this chapter." Experts in the Department of Administration - Retirement & Benefits concluded this is an unsound method for pension plans. The plan is based on an unfunded source. State's liability is also concerned.

Section 2. AS 08.62.170.

1. Vessels involved are of a U.S. registered class. Liens come under jurisdiction of U.S. Federal Court System and involve the U.S. Marshal's Office.
2. Marine pilots have the ability to pursue claims through the judicial system.
3. Cost to Alaska in enforcing a statute of this type, i.e., confiscation, safekeeping, and board would have to utilize the judicial system for appropriate conclusions.
4. Bill gives the board authority outside of its intended scope and functions.

If you desire further clarification of the department's position on SB 31, please contact Catherine Wallen, Legislative Liaison, Department of Commerce and Economic Development.

Sincerely,

Charles R. Webber
Commissioner

HDT/jc2/5

THE LEGISLATURE THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 31 "An Act relating to a pension plan for Alaska pilots and liens
Title for payment of marine pilotage fees; and providing for an effective date."
Requested by Ziegler Date 1-19-81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Regulation and licensing of professions - Boards
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	-0-	89.1	64.2	68.6	73.4	78.5
200 TRAVEL	-0-	0	0	0	0	0
300 CONTRACTUAL	-0-	0	0	0	0	0
400 COMMODITIES	-0-	0	0	0	0	0
500 EQUIPMENT	-0-	2.0	0	0	0	0
600 LAND & STRUCTURES	-0-	4.0	3.0	3.0	3.0	3.0
700 GRANTS, CLAIMS, ETC.	-0-	0	0	0	0	0
TOTAL	-0-	95.1	67.2	71.6	76.4	81.5

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	95.1	67.2	71.6	76.4	81.5
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	3	2	2	2	2
PART TIME						
TEMPORARY						

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

7% inflation factor used on personal services

See attached page for detailed information.

IV. DATE 1-19-81 PREPARED BY Marjorie Odland, Regulations Specialist
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

PERSONAL SERVICES - FY'82 Salary Schedule

12 mos., gen.govt., Range 13, Research Analyst (FY'82 only)		29,104.99	
12 mos., gen govt., Range 13, Retire.Benefit Spec. I		29,104.99	
12 mos., gen govt., Range 14, Auditor I		30,930.00	
	Total	89,139.98	(FY'82)

* FY'83, 7% inflation factor:

12 mos., gen govt., Range 13, Retire.Benefit Spec. I		31,141.00	
12 mos., gen govt., Range 14, Auditor I		33,095.00	
	Total	64,236.00	(FY'83)

EQUIPMENT - One time expense FY'82

2 bookcases, 3 shelves	247.48
2 four drawer files, legal	505.20
2 chairs, swivel with arms	368.78
2 side chairs without arms	172.22
2 desks, 60"x30"	853.84
Total	2,147.52

LAND & STRUCTURES

FY'82, 3 positions - 65 sq. ft., x 3 x 1.70 = 4,000.00

FY'83, 2 positions - 65 sq. ft., x 2 x 1.70 = 3,000.00

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

July 4, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: M/S Sun Princexs

ATTORNEY IN FACT FOR:

Capt. Ed Creasey
Capt. Jack Viera

INV. 4006

Pilot services rendered for the M/S Sun Princess on trip # 5

Pilot fee in and out of Juneau	$970.00
Glacier Bay Cruising	1,386.00
Pilot fee in and out of Skagway	1,134.00
Pilot fee in and out of Ketchikan	970.00
841 miles X 690 passengers X .503 mills	2,918.85
54.36 excess units	639.27
Transportation and Subsistence	119.32
Total	$8,137.44

Transportation and Subsistence

6/29/80	Hotel	$80.77
thru	Meals	24.80
7/3/80	Cabs	13.75
	Total	$119.32

APPROVED

Author. | Dates | Tonnage | Comp. | Payment

PAID BY ALASKA MARITIME AGENCIES
CHECK No. 16124
CHARGE TO ACCOUNT
Sun P. Voy #5 7/80

REC'D JUL 16 1980

APPROVED:

M. Mac. 7/8/80

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska

By Harold Nicholson

Title

Terms: Payment due upon completion of service. Finance charges for late payment 1½% per month, annual percentage 18%.

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

August 2, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: S/S Universe # 2

ATTORNEY IN FACT FOR:
Capt. Harley Clough
Capt. Jack Viera
Capt. Roger Dunn

INV. 4056

Pilot services rendered for the S/S Universe on trip # 2.

Pilot fee in and out of Juneau	$970.00
Glacier Bay Cruising	1,386.00
Pilot fee in and out of Sitka	970.00
Pilot fee in and out of Ketchikan	970.00
583 miles X 528 passengers X .503 mills	1,548.35
Travel and Standby Days	552.00
Detention Days	276.00
27.08 excess units	318.40
Transportation and Subsistence	814.40
Total	$7,805.15

Travel-Standby-Detention Days

7/25/80	Detention Day	$138.00
7/25/80	Travel Day	138.00
7/26/80	Detention Day	138.00
7/27/80	Travel Day	138.00
7/30/80	Travel Day 2 pilots	276.00
	Total	$828.00

Transportation and Subsistence

7/22/80	Trans	$418.10
Thru	Hotel	186.00
8/1/80	Meals	130.20
	Cabs	75.10
	Phone	5.00
	Total	$814.40

APPROVED

M. May 8/12/80

APPROVED

Author. | Rates | Ten... | Comp. | Personnel

PAID BY ALASKA MARITIME AGENCIES
CHECK No. 16051
CHARGE TO ACCOUNT
Universe #2

8/80

RECD AUG 17 1980
SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska

By Harold Mickelson

Title

Terms: Payment due upon completion of service. Finance charges for late payment 1½% per month, annual percentage 18%.

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

July 20, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: S/S Universe # 1

ATTORNEY IN FACT FOR:
Capt. /Vern Wyatt
Capt. Roger Dunn

INV. 4029

Pilot services rendered for the S/S Universe on trip # 1.

Pilot fee in and out of Juneau	$970.00
Glacier Bay Cruising	1,386.00
Pilot fee in and out of Sitka	970.00
Pilot fee in and out of Ketchikan	970.00
460 miles X 528 passengers X .503 mills	1,221.68
Detention Days	276.00
Travel and Standby Days	828.00
27.08 excess units	318.40
Transportation and Subsistence	910.90
Total	$7,850.98

Travel and Detention Days

7/8/80	Travel Day 2 pilots	$276.00
7/11/80	Travel Day	138.00
7/11/80	Detention Day	138.00
7/12/80	Detention Day	138.00
7/13/80	Travel Day	138.00
7/16/80	Travel Day 2 pilots	276.00
		$1,104.00

APPROVED

M. May 7/22/80

Transportation and Subsistence

7/08/80	Trans	$741.00
thru	Hotel	74.40
7/18/80	Meals	31.00
	Cabs	60.50
	Phone	4.00
Total		$910.90

APPROVED
Agent | Rates | Tonnage | Com. | Payment
PAID BY ALASKA MARITIME AGENCIES
CHECK No. 16024
CHARGE TO ACCOUNT
7/30/80

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska
By Harold Mathiesen
Title CP

Terms: Payment due upon completion of service
Finance charges for late payment 1½% per month, annual percentage 18%.

RECD JUL 29 1980

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

RE: Sun Princess
#1

June 6, 1980

Alaska Maritime Agencies
P. O. Box 8075
Ketchikan, Alaska 99901

ATTORNEY IN FACT FOR:
Capt. Bill Bullard
Capt. George McReynol

INV. 3562

Pilot services rendered for the Sun Princess in trip #1

Pilot fees in/out Juneau	970.00
Pilot fees in/out Skagway	1,134.00
Glacier Bay Cruising	1,386.00
Pilot fees in/out Ketchikan	970.00
Misty Fjords cruising	692.00
782 miles x 690 passengers x 5.03 mills	2,714.08
Travel & Standby Days	552.00
54.36 excess units	799.00
Transportation & Subsistence	479.05
TOTAL	9,696.13

Travel Days

6/1	travel/ 2 pilots	276.00
6/6	travel/ 2 pilots	276.00
		552.00

APPROVED
Author. | Rates | Tonnage | Comp. | Payment
PAID BY ALASKA MARITIME AGENCIES
CHECK No. 16003
CHARGE TO ACCOUNT
Sun Princess #1

6/8C

Transportation & Subsistence

APPROVED: REC'D JUN 26 1980

6/1/80 thru 6/6/80	Trans.	330.00
	Cabs	34.45
	Meals	37.20
	Hotel	74.40
	Phone	3.00
		479.05

M. May 6/16/80

Terms: Payment due upon completion of service. Finance charges for late payment 1½% per month, annual percentage 18%.

eh b

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska
By Bonnie A. Lepsin
Bookkeeper
Title .....

CRUISE #3

MARINE PILOTING

Southeastern Alaska Pilots Association

Telephone: 907-225-9696

P.O. BOX 6100

Cable Address: SEAPILOTS

KETCHIKAN, ALASKA 99901

Sept. 16, 1980

Alaska Maritime Agencies Inc.
Box 8075
Ketchikan, Alaska 99901

RE: M/S Island Princess

ATTORNEY IN FACT FOR:

Capt. Harley Clough
Capt. Bob Nerup

INV. 4134

Pilot services rendered for the M/S Island Princess on trip # 11.

Pilot fee in and out of Ketchikan	$970.00
Pilot fee in and out of Juneau	970.00
Pilot fee in and out of Skagway	1,134.00
Glacier Bay Cruising	1,386.00
Pilot fee in and out of Sitka	970.00
569 miles X 630 passengers X .503 mills	1,803.10
Inadequate Quarters	223.20
59.90 Excess units	880.50
Transportation and Subsistence	150.20
Total	$8,487.00

Transportation and Subsistence

9/09/80	Trans	$116.00
thru	Meals	6.20
9/13/80	Cabs	26.00
	Phone	2.00
	Total	$150.20

Inadequate Quarters

9/10/80	Juneau	$74.40
9/11/80	Skagway	74.40
9/12/80	Cape Spencer	74.40
	Total	$223.20

APPROVED
[illegible] MARITIME AGENCIES
O.K. S. No. 16794
CHARGE TO ACCOUNT
F.P. #11 9/80
SEP 26 19[illegible]

APPROVED:
M.M. 9/24/80

SOUTHEASTERN ALASKA PILOTS ASSN.
Ketchikan, Alaska
By Harold MacKinnon
Title

Terms: Payment due upon completion of service. Finance charges for late payment 1½% per month, annual percentage 18%.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Summary - SB 31, Ziegler by request

"An Act relating to a pension plan for Alaska Pilots and liens for payment ot marine pilotage fees; and providing for an effective date."

08.62.040:(c)

Adds new subsection (c)authorizing powers and duties of the Board of Marine Pilots in establishing a pension plan to provide benefits to retired or disabled pilots and to the surviving spouses of deceased pilots. Also gives the Board the authority of financing and administering the fund.through pilotage tarriffs.

08.62.170:

Amends section to include that the Board (as well as a pilot) has a lien on a vessel for payment of pilotage fees.

Fiscal note from Dept. of Commerce & Econ Devel: Related to administrative and clarical costs of enforcing fund:

FY 82.....$95,100.(includes initial purchases of equipment)
FY 83..... 67,200.
FY 84..... 71.600
FY 85..... 76.400
FY 86..... 81.500

Fiscal does not show figures for possible impact of judicial costs in enforcing necessary liens held by the Board.

DRAFT

MARITIME INDUSTRY

POSITION PAPER

IN OPPOSITION TO

CS FOR SENATE BILL NO. 31(L & C)

The purpose of this position paper is to call your attention to the above-referenced bill which is presently before the Senate Transportation Committee for consideration. If enacted into law, this bill would give authority to the Board of Marine Pilots to establish a pension plan for marine pilots licensed by the State.

BACKGROUND

In 1970, the State of Alaska enacted legislation to create the Board of Marine Pilots. The purpose of creating a pilotage authority is:

(1) to ensure their efficiency by only issuing licenses to competent persons, and by making it illegal for unlicensed persons to act as pilots,

(2) to ensure that there is a supply of pilots available to meet the needs of shipping,

(3) to regulate the fees charged for their services.

Unfortunately, what has evolved over the eleven years since the State pilotage system was established, is a situation where the pilots themselves have established an unhealthy control over the profession the Board of Marine Pilots was established to regulate. Virtually all of the legislation and regulation having to do with the pilotage profession

over the last ten years has been initiated by the pilotage associations in southeast and southwest Alaska. These initiatives have been designed to obtain legal sanction for restricting access into their membership and to gain a monopolistic control over pilotage trade.

The above can best be illustrated by the lengthy hearings that took place in April of 1980 with regard to an application by the Southwest Alaska Pilots Association (SWAPA) for an Increase in Rates. Attached hereto is a copy of the suggested order of the hearing officer which we would encourage you to review. The footnotes are particularly useful in understanding the character of this suggested order.

The Board of Marine Pilots adopted the above order of the hearing officer with the exception of the section on Increasing the Number of Pilots. Consequently, there is no control over the number of pilots that divide the revenue generated by the order. Therefore, it is possible to conclude that incomes in the range of $150,000 - $175,000 per year are enjoyed by some pilots in Southwest Alaska.

In addition, at the February 17, 1981, Board of Marine Pilots Meeting, this Order was amended further to allow SWAPA the right to operate Middlerock, Inc. (the pilot boat service at Valdez) as a separate profit making venture. The $260,000 in expenses allowed in the attached Order was given to SWAPA as an additional increase in the tariff.

Another illustration of the control SWAPA has asserted has to do with a piece of legislation that they sponsored

and that was passed in 1977 (AS08.62.185). This statute, as a practical matter, mandates the employment of state licensed pilots on enrolled vessels. The Legislative Audit Report in 1979 pointed this out in Section III.2 on page 20, and the State should repeal the above section because it is clearly unconstitutional.

Other measures of control asserted by the pilots have to do with the lack of advertising of opportunities to join the pilotage profession, refusing to sign the trip cards of applicants objectionable to the association and by exclusive and non-competitive agreements with individual members.

PENSION PLAN LEGISLATION

The background detailed above is an attempt to simply demonstrate the climate that users of pilotage services find themselves in today. The pension plan legislation currently before you is a result of several efforts by the marine pilots to have a pension plan implemented by the Board of Marine Pilots. The Board has consistently denied all previous proposals to establish a State supported plan for marine pilots who are self-employed ~~individuals~~ professionals who band together in associations to share a common dispatching facility.

All rate increases previously ~~adopted by~~ presented to the Board of Marine Pilots by the pilots associations have taken into consideration the expense of an individual Keogh Plan, which is the proper pension mechanism for self-employed persons. Attached is a portion of the proposal of the Southeast Alaska Pilots Association for an increase in rates which is presently before the Board of Marine Pilots. This attachment illustrates the fact marine

pilots already have existing individual plans.

In addition, most persons who enter the pilotage profession come from prior employment in other maritime related occupations where pension benefits have already been earned. Consequently, should CS for Senate Bill No. 31 (L & C) be signed into law, it is conceivable that some marine pilots would enjoy the benefits of as many as three separate pension plans.

Chapter 62. Marine Pilots.

Article
1. Board of Marine Pilots (§§ 08.62.010 — 08.62.040)
2. Licensing (§§ 08.62.080 — 08.62.150)
3. General Provisions (§§ 08.62.170 — 08.62.200)

Revisor's note (1970). — In ch. 106, SLA 1970, AS 08.62 was incorrectly designated as 08.67.

Article 1. Board of Marine Pilots.

Section
10. Creation and membership of board
20. Appointment and term of office
30. Meetings
40. Powers and duties

Sec. 08.62.010. Creation and membership of board. There is created the Board of Marine Pilots. It consists of two pilots licensed under this chapter who have been actively engaged in piloting on vessels subject to this chapter, two agents or managers of vessels subject to this chapter, two public members in accordance with AS 08.01.025, and the commissioner or his designee. Not more than one pilot and one agent or manager shall be from any one judicial district. All members of the board shall be residents of the state. (§ 2 ch 106 SLA 1970; am § 8 ch 25 SLA 1976)

Effect of amendment. — The 1976 amendment inserted "two public members in accordance with AS 08.01.025" in the second sentence.

Sec. 08.62.020. Appointment and term of office. The governor shall appoint the pilot and agent or manager members of the board, subject to confirmation by a majority of the members of the legislature in joint session, for terms of four years, or until their successors are appointed. The first members shall be initially appointed for one, two, three and four year terms. (§ 2 ch 106 SLA 1970)

Sec. 08.62.030. Meetings. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (§ 2 ch 106 SLA 1970)

Sec. 08.62.040. Powers and duties. (a) The board shall

(1) provide for the maintenance of efficient and competent pilot service on all waters covered by this chapter to assure protection of shipping and the safety of human life and property;

(2) consistent with the law, adopt regulations, subject to the Administrative Procedure Act (AS 44.62), establishing the qualifications

of pilots and providing for the examination of pilots and the issuance of original or renewal pilot licenses to qualified persons;

(3) keep a register of licensed pilots, vessels, operators, agents, and managers;

(4) regulate pilotage fees;

(5) make available, upon request, copies of this chapter and the regulations adopted under it.

(b) The board may, by regulation, make any other provision for proper and safe pilotage upon the waters covered by this chapter and for the efficient administration of this chapter. (§ 2 ch 106 SLA 1970)

Article 2. Licensing.

Section	Section
080. License requirement	120. Duration, renewal
090. Application	130. Lapsed license
100. Qualifications	140. Fees
110. Previous licensure	150. Denial, revocation or suspension

Sec. 08.62.080. License requirement. No person may pilot a vessel subject to this chapter unless he is licensed under this chapter. (§ 2 ch 106 SLA 1970)

Sec. 08.62.090. Application. (a) A person who desires to be licensed under this chapter shall apply in writing to the department.

(b) The application shall provide the information and be made on a form prescribed by the board. (§ 2 ch 106 SLA 1970)

Sec. 08.62.100 Qualifications. A person is entitled to a license under this chapter if he

(1) is of good moral character;

(2) is a citizen of the United States;

(3) passes the examination given by the board; and

(4) qualifies under the regulations adopted under § 40(a) (2) and (3) of this chapter. (§ 2 ch 106 SLA 1970)

Sec. 08.62.110. Previous licensure. A license that was issued under AS 30.10 is considered as having been issued under this chapter. (§ 2 ch 106 SLA 1970)

Editor's note. — AS 30.10, referred to in this section, was repealed by § 4, ch. 106, SLA 1970.

Sec. 08.62.120. Duration, renewal. A license issued under this chapter shall be renewed biennially on dates set by the department. A license issued under AS 30.10 lapses at the end of calendar year 1970. A license issued between May 7, 1970 and the end of 1970 shall be issued for a fee of $100. A license shall be renewed without examination upon the payment of the biennial license fee. (§ 2 ch 106 SLA 1970)

Sec. 08.62.160. Mandatory employment of licensed pilots. A vessel subject to this chapter navigating the inside coastal waters of Alaska as determined by regulation shall employ a pilot holding a valid license under this chapter. (§ 2 ch 106 SLA 1970)

Amended

Sec. 08.62.170. Pilot's lien for compensation. Each vessel, its tackle, apparel and furniture and the owner of the vessel are jointly and severally liable for the compensation of a pilot employed on the vessel and the pilot has a lien on the vessel, her tackle, apparel and furniture for his compensation. (§ 2 ch 106 SLA 1970)

Sec. 08.62.180. Exemptions. This chapter does not apply to

(1) vessels under enrollment, except as provided in § 185 of this chapter;

(2) fishing vessels registered in the United States or in British Columbia, Canada;

(3) motorboats as defined in sec. 1 of the federal Motor Boat Act of 1940 (54 Stat. 163; 46 U.S.C., sec. 526 et seq.);

(4) vessels of United States registry of less than 300 gross tons and tow boats of United States registry and vessels owned by the State of Alaska, engaged exclusively

(A) on the rivers of Alaska, or

(B) in the coastwise trade on the west coast of the United States including Alaska, Hawaii, and British Columbia, Canada;

(5) vessels of Canada, including Canadian cruise ships, engaged in frequent trade between British Columbia and Alaska, if reciprocal exemptions are granted by Canada to vessels owned by the State of Alaska and those of United States registry; and

(6) pleasure craft. (§ 2 ch 106 SLA 1970; am § 1 ch 43 SLA 1972; am § 2 ch 78 SLA 1977)

Effect of amendment. — The 1977 amendment added "except as provided in § 185 of this chapter" to the end of paragraph (1).

Sec. 08.62.185. Certain licensed pilots required for oil tankers. (a) Any oil tanker, whether enrolled or registered, of 50,000 dead weight tons or greater, shall, when navigating in state waters beyond Alaska pilot stations either

(1) employ a pilot licensed by the state under this chapter, or

(2) utilize a federally licensed pilot whose duty station has been on that tanker throughout that specific voyage.

(b) The pilot required in (a) of this section shall control the vessel during all docketing operations. (§ 3 ch 78 SLA 1977)

Editor's note. — Section 1, ch. 78, SLA 1977, provides: "INTENT. The legislature finds that because of the danger of oil spills, the transportation of crude oil and refined petroleum products by tankers on state waters creates a potential hazard to important natural resources of the state and to jobs and incomes dependent on these resources. The legislature also recognizes that docking areas for receiving these

SB

35

Part 2. Taxes.

Chapter
21. Oil and Gas Corporate Income Tax (§§ 43.21.010 — 43.21.120)
23. Permanent Fund Dividends (§§ 43.23.010 — 43.23.100)
45. School tax (Repealed)
75. Fisheries Taxes (§§ 43.75.010 — 43.75.140)
76. Salmon Enhancement Tax (§§ 43.76.010 — 43.76.030)

Chapter 20. Alaska Net Income Tax Act.

Article
1. Persons Subject to Tax (§§ 43.20.010 — 43.20.045)

Article 1. Persons Subject to Tax.

Section
11. Tax on individuals, fiduciaries, and corporations
12. Limitation on application of chapter; credits
13. Individual tax credits
15. [Repealed]
16. Sharing of corporate income tax revenue with municipalities
17. [Repealed]
21. Internal Revenue Code adopted by reference
30. Returns and payment of taxes
31. Taxable income of residents; deductions; exemptions
33. [Repealed]
35. [Repealed]
36. Federal tax deductions and credits
37. Trade or business energy conservation credit
38. [Repealed]
39. [Repealed]
40. Income from sources in the state
45. [Repealed]

Sec. 43.20.011. Tax on individuals, fidicuaries, and corporations. (a) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(b) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(c) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 percent of taxable income, and a surtax which is equal to 4.0 percent of taxable income, except that the tax on a corporation engaged in the production or transportation of crude oil or natural gas shall be determined and paid in accordance with AS 43.21. For tax years beginning after December 31, 1979, the surtax exemption is $50,000. For controlled corporations described in secs. 1561 — 1563 of the Internal Revenue Code only one surtax exemption may be allowed for the controlled group.

(f) Repealed b
ch 70 SLA 1975
1980; am § 10 c

Effect of amend
amendment added a
of subsection (e).
Section 8, ch. 113,
1980 amendment, ef
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September 25, 1980,
January 1, 1979, mad

Sec. 43.20.012.
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Effective date. —
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Sec. 43.20.013.
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the candidate will
(ii) United State
(iii) United State
(iv) governor or
(v) the Alaska le
(vi) delegate to a
(vii) electoral co
or

fact. Where the state, to its detriment, relying on that lack of notice, as it reasonably could, failed to institute the statutory mechanism for collection of additional taxes, the taxpayers are estopped from asserting the protection of the statute of limitations embodied in AS 43.20.200 b). Stevenson v. Burgess, Sup. Ct. Op. No. 1514 (File No. 2791), 570 P.2d 728 (1977).

Repealed

Sec. 43.20.031. Taxable income of residents; deductions; exemptions. (a) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(b) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) An affiliated group of corporations may make or the commissioner may require them to make a consolidated return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, Internal Revenue Code secs. 1501 — 1552, as amended, apply.

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) A corporation which is a member of a group of unitary corporations which collectively has income from business activity taxable both inside and outside the state, or income from other sources both inside and outside the state, shall determine its income from sources in this state by use of the combined method of accounting.

(am § 1 ch 8 SLA 1978; am § 235 ch 100 SLA 1980; am §§ 14 — 17 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Revisor's note. — For the specific provisions detailing the handling of the minimum deduction and refund procedures for 1977, see secs. 3 — 5 ch. 8, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

Cross reference. — As to tax exemption for permanent fund dividends, see AS 43.23.090.

Effect of amendments.

The 1978 amendment added paragraph (4) of former subsection (a).

Section 235, ch. 100, SLA 1980, the first 1980 amendment, effective January 1, 1981, in former subsection (f), inserted "who is a resident of the state" and substituted "$100" for "$50" near the beginning of the subsection.

Sections 14, 15, and 17, ch. 113, SLA 1980, the second 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1980, rewrote paragraph (3) of former subsection (a), in subsection (e), deleted "or combined" following "make a consolidated" in the first sentence, and added subsection (i). Section 16 of ch. 113, effective June 21, 1980, and retroactive to January 1, 1977, added the second sentence in former subsection (h).

The third 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1980, repealed subsections (a), (b), (f), (g), and (h).

The fourth 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

As the rest of the section was not affected by the amendments, it is not set out

Editor's note. — Section 52, of this Act, effective June 21, 1980, makes sections 14, 15, and 17 of the Act applicable to tax years beginning after December 31, 1979.

For legislative findings and purpose of the third and fourth 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

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by Stevenson v. Burgess, Sup.
1514 (File No. 2791), 570 P.2d

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and (h).
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d fourth 1980 amendments, see
SSSLA 1980, and § 1, ch. 2,
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and Resolves.

add new section

Sec. 43.20.033. Taxable income of fiduciary.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980, effective September 25, 1980.

Editor's note. The repealed section derived from § 18, ch. 113, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Legislative history report. — For report on ch. 8, SLA 1978 (HB 652), see 1978 House Journal, pp. 110, 173; Senate Journal, p. 243.

Sec. 43.20.035. Taxable income of nonresidents and part-year residents.

Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980, effective September 25, 1980.

Editor's note. — The repealed section derived from § 6, ch. 70, SLA 1975; § 2, ch. 8, SLA 1978; § 1, ch. 64, SLA 1980; § 19, ch. 113, SLA 1980.

For legislative findings and purpose of repealing acts, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980

Sec. 43.20.036. Federal tax deductions and credits.

(d) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(e) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(g) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(h) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(i) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980.

(am § 3 ch 22 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Effect of amendments. — The first 1980 amendment added former subsection (i).

The second 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1980, repealed subsections (d) — (i).

The third 1980 amendment, effective September 25, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

As the rest of the section was not affected by the amendment, it is not set out.

Editor's note. — For legislative findings and purpose of the second and third 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.037. Trade or business energy conservation credit [Effective January 1, 1981]. (a) A person engaged in a trade or business is allowed as a credit against the tax due under this chapter 35 percent of the cost of

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill No. 20

Title An Act relating to corporate income taxes

Requested by R. D. Stevenson Date 1/30/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection And Management

BRU, Program, or Subprogram(s) Affected Audit Division

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

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

FROM: Gary L Jenkins
Director
Audit Division

SUBJECT: SB 20

This bill would provide for an exemption for corporations subject to the income tax imposed by AS 43.20 of $150,000. This proposed total exemption from tax would replace the current surtax exemption which is currently in the law. The surtax exemption served to reduce the rate on the first $50,000 of taxable income to 5.4% while all taxable income over $50,000 is subject to the full rate of 9.4%.

In attempting to ascertain the effect of this exemption I have reviewed the filing information for the returns filed in 1979. The information for 1980 is not yet available, however, the data related to the number of returns which are filed in the various taxable income levels should remain relatively constant. If this exemption were enacted into law, 90.23% of the returns which reported taxable income would be exempt from any tax. The actual effect of this exemption would be tantamount to a repeal of the tax except for the very large domestic corporations and the multistate corporations which do business in Alaska.

Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayers would be the multistate corporations who are doing business in Alaska.

It is recommended that very careful review be given to any legislation providing exemptions from the imposition of the corporate income tax.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 20
Title
Requested by Senate Labor and Commerce Date January 22, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Millions ~~Thousands~~ of Dollars)

GENERAL FUND		(12.2)	(14.6)	(17.3)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have. Although incomplete, the data is the best that we have to date. For lack of more complete data, it was assumed that the data is a representative sample. Preliminary analysis indicates that, when repealing the surtax exemption and exempting the first $150,000 of taxable income, approximately 34 percent of net corporate income taxes would be eliminated. The revenue losses would be about $12.2 million in FY82, $14.6 million in FY83 and $17.3 million in FY84. Approximately 94 percent of corporate returns would be totally exempt from the Alaska income tax. However, other taxes such as personal holding company taxes, taxes from recomputing prior year investment tax credits and minimum taxes on tax preference items would be payable.

IV. DATE January 22, 1981 PREPARED BY Lance Rovig, Economist LRR
AGENCY Revenue
PHONE 465-2390

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

33-001 (Rev. 12/80

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Summary - SB 20 by Senator Rodey

"An Act relating to corporate income taxes: exempting a portion of the income of a corporation from taxation under the Alaska Net Income Tax Act and repealing the surtax exemption under that Act; and providing for an effective date."

- SB 35 by Senator Ziegler & Bradley

"An Act relating to corporation income taxes under the Alaska Net Income Tax Act and exempting a portion of the income of a corporation from taxation under that Act; and providing for an effective date."

Figures based on returns filed in 1979 with assumption that 1980 figures will be relatively the same. Total estimated amount collected from corporate income taxes for 1981 = 35 million and 1982 = 36 million dollars.

SB 20	SB 35
Exemption for corporations from income tax $150,000.00	Exemption for corporations from income tax $250,000.
Repeals Surtax Exemption	Retains Surtax Exemption
Repeals sec. 43.20.031 - Duplicate language covered under 43.20.033 (b) & (c)	Repeals sec. 43.20.031 - same as SB 20
Retroactive clause to Jan. 1, 1981 on corporate exemption	Retroactive clause to Jan. 1, 1981 on corporate exemption
43.20.031(repealed above) is retroactive to Jan. 1, 1981	43.20.031 (repealed above) is retroactive to Jan. 1, 1981
Effective Date Clause - immediately	Effective Date Clause - immediately
Returns exempt from income tax 90.23% equal to 4,936 returns	Returns exempt from income tax 93.17 equal to 5,096 returns
Repeal surtax exemption=34% eliminated	Retain surtax exemption=45% eliminated
FY 82 revenue losses 12.2 M FY 83 " 14.6 M FY 84 " 17.3 M	FY 82 revenue losses 16.1 M FY 83 " 19.4 M FY 84 " 22.9 M
Approx. 94% corporate returns exempt	Approx. 96% corporate returns exempt

FIGURES BASED ON ANNUAL AMOUNT OF 5,470 RETURNS.....

fle SB 35

SB 20

Sec 1, AS 43.20.011(e) amends percentage of taxes from 5.4 to 9.4. and repeals surtax of 4.0%. Tax on a corporation engaged in transportation of crude oil or natural gas shall be determined and paid in accordance with A.S. 43.21.

SB 20
Section 43.20.033(a) provides for $150,000 exemption.

SB 35
Section 43.20.033(a) provides for $250,000 exemption.

SB 20

Section 43.20.033 (b) is the same as SB 35

SB 20
43.20.033 (c) is the same as SB 35.

SB 20
43.20.033 (d) is the same as SB 35.

43.20.031 is repealed in both SB 35 and SB 20.

SB 20
Sections 1-3 retroactive 1/1/81 and apply to tax years beginning 12/31/80

SB 35
Sections 1-2 retroactive 1/1/81 and apply to tax years beginning 12/31/80.

Immediate effective date same in both bills.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 31, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor & Commerce Committee
Room 119 - Capitol Building
Juneau, Alaska

Re: Senate Bill No. 35

Dear Senator Mulcahy:

Senate Bill No. 35, an Act relating to corporate income taxes under the Alaska Net Income Tax Act and exempting a portion of the income of a corporation from taxation under that Act, was introduced in the Senate on January 13, 1981 and was referred to the Senate Labor & Commerce and Finance Committees.

For the consideration of the Senate Labor & Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary Jenkins, Director, Audit Division and Mr. Lance Rovig, Economist, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

cc: The Honorable Don Bennett
The Honorable H. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph M. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Lance Rovig, Economist
Research Section
Department of Revenue

04-D2LH

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 35

Title An Act relating to corporate income taxes under AK Net Income Tax Ac

Requested by R. D. Stevenson Date 1/30/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection And Management

BRU, Program, or Subprogram(s) Affected Audit Division

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

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memorandum dated 1/30/81 to Mr. R. D. Stevenson.

IV. DATE January 1, 1981 PREPARED BY Gary L. Jenkins, Director

AGENCY Revenue

PHONE 465-2320

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

33-001 (Rev. 12/80

MEMORANDUM State of Alaska

TO R. D. Stevenson
Special Assistant

DATE: January 30, 1981

FILE NO:

TELEPHONE NO:

SUBJECT: SB 35

FROM: Gary L Jenkins
Director
Audit Division

This bill would provide for an exemption of $250,000 for corporations subject to the income tax imposed by AS 43.20.

In attempting to ascertain the effect of this exemption I have reviewed the filing information for the returns received in 1979. The information for 1980 is not yet available, however, the data related to the number of returns which are filed in the various taxable income levels should remain relatively constant. If this exemption were enacted into law, 93.17% of the returns which reported taxable income would be exempt from any tax. The actual effect of this exemption would be tantamount to a repeal of the tax except for the very large domestic corporations and the multistate corporations which do business in Alaska.

Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayers would be the multistate corporations who are doing business in Alaska.

It is recommended that very careful review be given to any legislation providing exemptions from the imposition of the corporate income tax.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 35
Title
Requested by Senate Labor and Commerce Date January 22, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Millions of Dollars)

GENERAL FUND		(16.1)	(19.4)	(22.9)		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have. Although incomplete, the data is the best that we have to date. For lack of more complete data, it was assumed that the data is a representative sample. Preliminary analysis indicates that, when retaining the surtax exemption and exempting the first $250,000 of taxable income, approximately 45 percent of net corporate income taxes would be eliminated. The revenue losses would be about $16.1 million in FY82, $19.4 million in FY83 and $22.9 million in FY84. Approximately 96 percent of corporate returns would be totally exempt from the Alaska income tax. However, other taxes such as personal holding company taxes, taxes from recomputing prior year investment tax credits and minimum taxes on tax preference items would be payable.

IV. DATE January 22, 1981 PREPARED BY Lance Rovig, Economist Lee
AGENCY Revenue
PHONE 465-2390

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

SB

43

COMMITTEE REPORT

SENATE

1/13/81

FURTHER: iciary

Date: 23 February, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 43 relating to filing insurance forms

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for "An act relating to filing insurance policy forms" [X] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:05 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 46 "An Act relating to registration of construction contractors."

Mr. Daryl Cody, for the Association of General Contractors testified in oposition to SB 46, stating that although this is a conformity issue, AGC does not feel it is imperative. AGC feels that Alaskan contractors should meet the qualifications and standards of our industry, and this proposed ammendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion. (tape reading 026 to 155)

Mr. John Scribner, with the Department of Labor testified in favor of SB 46, stating that the proposed changes simplify the bidding process and eliminates confusion. (tape reading 170 to 271)

Next on the agenda was SB 50 "An Act relating to unemployment insurance; and providing for an effective date."

Mr. Art Zillig, with the Department of Labor testified in favor of SB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity except one in section 3; substitute "and" instead of "for". Mr. Zillig continued by giving a section by section analysis. (tape reading 287 to 472)

Next on the agenda was SB 43 "An Act relating to insurance."

Chairman Mulcahy requested a motion to move CSSB 43. The members were in agreement with this.

The meeting was adjourned by Chairman Mulcahy at 3:30 P.M.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MEETING MINUTES:

Committee meeting held 23 February, 1981; All committee members present.

Sen. Mulcahy opened meeting and addressed SB 46; called for testimony.

Mr. Daryl Cody's testimony reflected the position of AGC; expressed objection to SB 46. Although a conformity issue, AGC does not feel it is imperative. Alaskan contractors should meet the qualifications and standards of our industry, and this proposed ammendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion.

Mrs. Brice supported the testimony of Mr. Cody.

Jon Scribner testified for DOTPF expressing the departments position that the proposed changes simplify the bidding process, reduce the number of documents, and eliminates confusion.

Sen Mulcahy questioned Mr. Scribner about "outside" contractors having access to the bidding process and receiving contracts.

Mr. Scribner responded that although the possibility exists, that hasn't been the case on the Federally issued contracts.

Sen Fahrenkamp asked Mr. Scribner what documents would be eliminated?

Mr Scribner responded that the same documents would be required, however confusion would be minimized, and we would have more good bidders.

Sen Fahrenkamp asked whether we shouldn't eliminate some of the documents?

SEN Mulcahy asked for additional testimony and went on to CSSB 50.

Art Zillig Department of Labor, gave testimony on CSSB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity. Continued testimony by giving a section by section analysis.

Sen Fahrenkamp asked question about suitable work section and conformity.

Sen Ziegler asked about fiscal impact.
Sen Hohman replied negative fiscal impact

Sen Mulcahy called for further testimony, and then continued to CSSB 43.

Don Koch expressed the position of the Div. of Insurance, and explained that they were in aggreement with the CS.

Sen Mulcahy asked for further testimony and the entertained the motion to pass the committee substitute.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

There is an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - Ø

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 9, 1981

Senate Labor & Commerce Committee Meeting

The meeting was called to order at 3:10 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler Fahrenkamp and Rodey.

First on the agenda was SB 19 "An Act relating to the legal rate of interest; and providing for an effective date."

Chairman Mulcahy mentioned that a line of credit funds should be a matter of separate legislation.

Mr. Don Rhoades, President of Peoples Bank in Anchorage, testified on SB 19, citing the Belt & Daniels report, 1980 Federal Deregulation Act, as to impact on banks (tape reading 035 to 150).

Mr. Rhoades stated that Federal regulations pre-empt state usury laws at $25,000.

Senator Rodey stated that pre-emption for $25,000 will apply April 1, 1983; we are taking ourselves from within a Federal scheme and developing our own usury statute. Banking deregulation allows us to do it. We are exempting the State of Alaska from the Federal Act and wish to set our own usury rate. Senator Rodey moved to amend SB 19 by deleting the figure $100,000 in line 17, page 1 of SB 19 to read $25,000. There were no objections.

SB 19 was passed out of Committee with "Do Pass" recommendations.

Next on the agenda was SB 43 "An Act relating to filing insurance policy forms."

Mr. Don Koch, Alaska Division of Insurance testified on SB 43. He stated that the Division of Insurance ask through the Governor to respond to Federal legislation which will put the Federal Government in a position to regulate medicare supplement insurance, unless the State of Alaska takes certain actions:

1.) Adopt minimum standards for medicare supplemental policies.

2.) Implement loss ratio regulation to examine relationships of benefits to cost - Public Law 96-265 effective July 1, 1982. (tape reading 522 to 546)

Mike Thomas, lobbyist for the American Council of Life Insurance testified on SB 43. He felt that the Federal regulations are not necessarily reflective in SB 43. He also felt there were two problems with the bill:

1.) It gives the Division the authority to set and approve regulations in all phases of insurance.

2.) This bill may not give enough authority to meet requirements. Present statutes do not give authorities. (tape reading 550 to 640)

Chairman Mulcahy felt that further staff research is needed.

The meeting was adjourned by Mulcahy at 3:40 P.M.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

February 10, 1981

rec'd Feb 11

Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 43

On Monday, February 9, 1981, Don Koch of this department appeared before your committee in support of SB 43. A representative of the Health Insurance Association of America (HIAA) also appeared and presented that association's views on SB 43 which were partly in conflict with Mr. Koch's testimony and position. Your committee suggested that it would be appropriate for this department and HIAA to attempt a compromise solution to conflicts.

With the assistance of Mr. Mike Thomas, HIAA's representative, we have worked out a resolution of our differences and ask that you offer the enclosed revision as a substitute to SB 43. It accomplishes the desires of this department in a manner acceptable to HIAA. We sincerely appreciate the reception that you and your committee have given this proposal.

Sincerely,

Charles R. Webber
Commissioner

CRW/val21G7
Enclosure

08-H2LH

* Section 1. AS21.42.130 is amended by adding a new subsection to read

(5) provides benefits which are unreasonable in relation to the premium charge, but this subsection shall not apply to life insurance, annuities or group disability insurance.

* Section 2. AS 21.84.590 is amended by adding a new subsection to read:

(10) AS 21.89.050

* Section 3. AS 21.87.340(16) is amended to read:

(16) AS 21.89.040 and AS 21.89.050

* Section 4. AS 21.89 is amended by adding a new section to read:

AS 21.89.050. Medicare Supplement Insurance. The director shall from time to time adopt regulations necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any federal regulations pertaining to that section, in order that this state shall retain its full authority to regulate minimum standards for medicare supplement insurance.

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February 10, 1981

The Honorable Robert Mulcahy
Chair, Senate Commerce & Labor Committee
Alaska State Senate
Pouch "V", Mail Stop 3100
Juneau, Alaska 99811

Re: Senate Bill 43

Dear Senator Mulcahy:

I have reviewed Commissioner Webber's letter of February 10, 1981, and the enclosed proposal for a committee substitute. The proposed language will, we believe, adequately and appropriately deal with the director's concerns, and we urge its adoption.

Thank you for your consideration on this bill.

Very truly yours,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

M. T. Thomas

MTT/dh

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senate Labor & Commerce Committee Members

DATE: February 5, 1981

FROM: Senator Mulcahy, Chairman

RE: Research / SB 43

The attached memorandums are the result of a request of the Legislative Affairs Agency for a legal opinion regarding SB 43 in its compliance with P.L. 96-265.

The second memo is possible alternate language and placement for the intent of SB 43; also prepared by L.A.A.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M January 28, 1981

SUBJECT: Filing Insurance Policy Forms - SB 43
(Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee
ATTN: Linda Otey

FROM: Linn H. Asper
Legislative Counsel

You have asked if SB 43 as drafted, if enacted, will insure state compliance with P.L. 96-265 (42 U.S.C. Sec. 1395ss) and prevent federal intervention to regulate medicare supplemental insurance policies.

P.L. 96-265 creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, including a requirement that such policies must be designed to pay out at least 75 percent of premiums collected in benefits. [42 U.S.C. Sec. 1395ss(c)(2)]. This is a federal requirement not directly related to state insurance laws, but if a state has not created requirements similar or identical to the federal requirements by July 1, 1982, the federal certification will come into play, superseding state regulation in this area. The State of Alaska favors state rather than federal regulation of the insurance industry in Alaska and thus wishes to obtain legislative authority to control premium-benefit ratios by enactment of SB 43.

The Division of Insurance has stated that the federal deadline of July 1, 1982 is misleading in that there is to be a federal survey of state laws existing on July 1st of this year which will be used to assess the need for federal intervention. The Division believes that changes in state law which become effective before July 1, 1982, but after July 1st of this year will not prevent the federal intervention which they seek to avoid. If the Division is correct, and I have no

reason to doubt them on this, then they do need authorizing legislation during this session to allow them to make regulations before July 1st of this year to avoid federal intervention.

It appears that SB 43 will give the Division of Insurance the authority it needs to avoid the threat of federal intervention as to medicaid supplemental insurance. It should be noted that the bill as written would allow regulation of premium-benefit ratios in all insurance policies written in the state, not just medicaid supplemental insurance. This broad authority may be desirable but it is not required by the new federal law. I also have some difficulty with the placement of the new law in AS 21.42.130, which has to do with insurance policy format, not substantive regulation of insurance rates. It might better be placed in AS 21.89 MISCELLANEOUS PROVISIONS, but its placement in AS 21.42.130 will not invalidate the law.

To summarize, SB 43 will have the effect of supplanting federal certification procedures in the area of premium-benefit ratios in medicaid supplemental insurance, if enacted this session. It goes beyond medicaid supplemental insurance and, in fact, gives the Division of Insurance power to set premium-benefit ratios for all insurance policies.

LHA:jdn

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3811

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M February 4, 1981

SUBJECT: Possible alternate language for SB 43 (Work Order No. 12-0479)

TO: Senate Labor and Commerce Committee
Attn: Linda Otey, A.A.

FROM: Linn H. Asper
Legislative Counsel

In connection with my memorandum of January 28th on SB 43, I have prepared the following alternate language for SB 43 to limit the bill to medicaid supplemental insurance. As noted in the memorandum, I would place the new language in AS 21.89, as follows:

AS 21.89 is amended by adding a new section to read:

Sec. 21.89.060. MEDICAID SUPPLEMENTAL INSURANCE. A medicaid supplemental insurance policy may not be issued unless it provides benefits which are reasonably related to the premiums charged, based on guidelines as set out in regulations to be adopted by the director. In this section "medicaid supplemental insurance policy" means a health insurance policy or health benefit plan offered by a private entity to individuals eligible for medicaid benefits, to provide reimbursement for medical expenses not covered by the medicaid program.

LHA:ljb

Chapter 89. Miscellaneous Provisions.

Sec. 21.89.010. Settlements. A settlement made under a motor vehicle liability insurance policy of a claim against an insured arising under that policy from an accident or other event insured against for damage to or destruction of property owned by another person shall not be construed as an admission of liability by the insured, or the insurer's recognition of that liability, with respect to any other claim arising from the same accident or event. The settlement shall be inadmissable in evidence in any legal action. (§ 1 ch 123 SLA 1966)

Legislative committee report.—For 123, SLA 1966, see House Journal legislative committee report on ch. (1966 page 841.

alternate language: Medicaid Supplemental Insurance

Sec. 21.89.060

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February 5, 1981

The Honorable Robert Mulcahy
Chair, Senate Commerce & Labor Committee
Alaska State Senate
Pouch "V", Mail Stop 3100
Juneau, Alaska 99811

Re: SB 43

Dear Senator Mulcahy:

SB 43 has been introduced at the request of the Governor because of Federal Legislation known as the Baucus Amendment, which became part of PL 96-265, the 1980 Social Security Amendment Law. The Amendment establishes minimum federal requirements for the regulation of individual medicare supplement policies, and for some group medicare supplement policies. The Amendment requires that the federal government regulate any such medicare supplements in a state that is found by the Supplemental Health Insurance Panel established under PL 96-265 not to be expected to have established by July 1, 1982 an approved state regulatory program meeting the standards of the statute. The Division of Insurance believes that SB 43 gives them the only authority that they need to have under the Baucus Amendment which they do not presently have: the power to disapprove policy forms if benefits are not found to be reasonably related to premiums.

This letter is written on behalf of the American Council of Life Insurance, and its sister trade association, the Health Insurance Association of America. The Council believes that SB 43, in its present form, does things which are not required by the Baucus Amendment and are seriously objectionable. We also believe that the bill does not in fact supply all of the authority the Alaska Division of Insurance lacks to adopt regulations completely complying with the Baucus Amendment.

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February 5, 1981

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In general, Baucus calls for a regulatory program to require insurance policies and Blue Cross/Blue Shield Plan medicare supplements to meet minimum standards of an NAIC 1979 Model Act and Regulation, and to meet minimum loss ratio standards. The NAIC 1979 Models generally establish minimum standards for policy benefits and provisions, prohibit certain types of policy provisions, have some disclosure requirements, and require the insurer to furnish a prescribed notice when its policy replaces another policy.

The NAIC, with HIAA input, revised its Model Act and Regulation in December 1980, to produce what we hope is a regulatory plan that meets the Baucus requirements. Unfortunately, Baucus contains some ambiguities which are not yet resolved, and the federal regulations have not yet been issued. The enclosed copies of the revised NAIC Model Act and Regulation have been marked by hand to correct some errors. Most states will probably adopt both the Act and the Regulation in this form.

The Insurance Division believes that under AS 21.42.130(2), requiring the Division to disapprove a policy form if it contains a "misleading clause," or an "exception or condition which deceptively affects the risk purported to be assumed in the general coverage of the contract," they can disapprove any policy form that purports to be a medicare supplement if it does not meet the requirements of the regulation they expect to adopt on medicare supplements.

We disagree with the Division's approach because the Division has not been given statutory authority to establish minimum standards for medicare supplements; that is, they may not establish minimum benefits or required and prohibited provisions. The Amendment also would appear to us to be inadequate because some of the Baucus requirements have nothing to do with the approval or disapproval of a policy form under AS 21.42.130. What we are most concerned about is that it may be decided at the federal level that the Insurance Division did not have the authority to adopt the regulation, and that therefore the state is not in compliance with Baucus.

Ironically, while the present bill may include too little to satisfy the requirements of the Baucus Amendment, it also includes in other ways much more than is needed to respond to Baucus, and we are concerned about this over-

inclusiveness as well. SB 43 by its terms is not limited to Medicare Supplement coverage. The bill applies to all types of insurance policies that are subject to AS 21.42.130, including life insurance, annuities, and all disability (health) insurance. Also, although casualty insurance is subject to actual rate regulation under AS 21.39, there are some exceptions to such regulation included in Sections 20 and 40, and these exceptions seem to be inconsistent with the proposed amendment. We point out in passing that the Blue Cross/Blue Shield carriers are not subject to this Section, because their policy form and rate provisions are in AS 21.87.

Health insurance rates are normally established by insurance company life actuaries, or sometimes by specially trained health actuaries. The process of setting rates in this area is very complex. Insurance departments are generally not equipped to regulate health insurance rates. Among other things, the qualified actuaries are simply not available. Part of the problem is due to the complexity of the process of rate making, but part of it is also due to the diversity of coverages. For example, rates for the same individual policy may be quite different, depending on risk characteristics of the people it is marketed to, and group policy rates are normally different for each group. Health insurance rates are in fact regulated by the intense competition in the business among the large number of health carriers. The exception is in the case of credit health insurance, where coverages are standardized and simplified and there is reverse competition in the sense that the higher the rate is set, the more the insurer can pay the creditor for its services. In that area, insurance rates are regulated by insurance departments. In Alaska, credit life and disability are governed by a special chapter, AS 21.57.

We are not sure that the Insurance Division really intends to exercise any authority over group health insurance rates, except to the extent required by Baucus for medicare supplements. We would be opposed to their being given the authority to do so in the future.

An alternative to SB 43 which would avoid both over-inclusion and under-inclusion, would be a bill which simply and directly authorized the Director to adopt

whatever regulations are necessary to meet the minimum requirements of the federal law. A draft of a bill which would do that is enclosed.

As stated at the beginning of this letter, the impetus for SB 43 is the Baucus Amendment. There are some interpretation problems in the Amendment, and the federal regulations have not been adopted. Those regulations may clarify, confuse, or add to, the requirements. The state's need to retain adequate authority to regulate insurance in the face of the Baucus Amendment can be met simply and directly, without either raising questions about the adequacy of the state's authority, or getting into complicated questions of rate regulation beyond medicare supplement insurance. We would urge that this more direct approach be used.

Thank you for this opportunity to comment on SB 43. I would be glad to obtain any further information the Committee may want that the Association has available to it. I would appreciate being advised of any scheduled hearing on the bill.

Sincerely,

ROBERTSON, MONAGLE, EASTAUGH & BRADLEY

M. T. Thomas

MTT:vb
Enclosures
cc: Charles D. Kuhnen (w/o enclosures)
Bill Lincoln (w/o enclosures)

Attachment A

Section 1. AS 21.36 is amended by adding a new section to read:

Section 21.36.360. Medicare supplement insurance. The Director shall from time to time adopt such rules as are necessary to comply with the requirements of Section 507(a) of Public Law 96-265 enacted by the Congress of the United States, and of any amendments to that section and of any Federal regulations pertaining to that section, in order that this State shall retain its full authority to regulate minimum standards for Medicare supplement insurance.

Present Statutes go to 21.36.200

Suggested Amendment offered by Mike Thomas, Insurance Lobbyist

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 43 - Rules/by Request

"An Act relating to filing of insurance policy forms."

The addition of subsection 5 to 21.42.130 would insure State compliance with P.L. 96-265 which creates a certification process for certain types of insurers, setting new standards for medicare supplemental insurance, and including a requirement for premium benefit ratios in medicare supplemental insurance.

[illegible] an apparent federal deadline of July 1, 1982 by which time States must act on the requirements concerning medicare supplemental insurance. However, federal surveys of state laws beginning on July 1, 1981 will be used to assess the need for federal intervention. Therefore, it is felt that the issue must be dealt with immediately to avoid such intervention.

The Federal Law - P.L. 265 - is the Social Security Act adopted by the 96th Congress. The 'Baucus Amendment' of the Act required that states comply in two areas concerning medicare supplemental insurance:

1. States shall adopt minimum standards of coverage for medicare supplemental policies.

There is sufficient statutory authority to comply with this requirement under 21.42.120, Filing of Forms.

2. States must enforce cost/benefit ratio regulations.

It is felt, by the Div. of Insurance, that SB 43, with the addition of subsection 5, will comply with the federal requirements.

Fiscal Impact - ∅

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

January 20, 1981

Honorable Bob Mulcahy
Chairman, Senate Labor and
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: Position Paper SB 43

Thank you for your request for information on SB 43.

The recent passage of Public Law 96-265 in the Federal Congress has the effect of transferring a portion of the regulation of insurance to the Federal Government unless the various states establish certain equivalent programs and do so on an extremely short time frame.

The insurance industry has traditionally been regulated by the various states, individually. This approach was reinforced in 1945 with the passage of the McCarran-Ferguson Act (15 USCA 1011-1015). There has been a fairly steady attempt to bring such regulation under a federal agency, particularly by the Federal Trade Commission, which has been resisted by the states with equal fervor. The principal argument at the federal level has been that insurance is interstate commerce and should be regulated by a federal agency. The states, on the other hand, argue that the federal bureaucracy is either unable or unwilling to recognize and be responsive to local conditions and needs. Due to Alaska's population relative to the rest of the nation, this is an argument that has a good deal of substance. In fact, Alaska has already experienced a situation that accents the State's concerns and did so at the expense of Alaska's citizens to the tune of about $36,000, and that was in 1972 dollars.

Public Law 96-265 addresses changes in the Social Security Act and includes language dealing with medicare supplemental policies. It has two requirements termed "The Baucus Amendments" which impact State regulation of insurance. The first requirement concerns adoption of minimum standards of coverage for medicare supplemental policies. The Division of Insurance has sufficient statutory authority to establish the necessary standards based on an argument that it would be a misrepresentation to offer or sell a contract of insurance that purports to be a medicare supplemental policy unless it provides the adopted minimums. This can be accomplished by regulation and work on it has commenced.

08-H2LH

The second requirement of "The Baucus Amendment" is for cost/benefit ratio regulation. This is the area in need of a legislative solution. The Division of Insurance does not currently have rate regulatory authority over disability or accident/health kinds of insurance including medicare supplemental policies. It, in fact, wishes to avoid rate regulation of the kind now applied to property and casualty kinds of insurance as there would be a fiscal impact not commensurate with the results. However, it would be appropriate to determine a reasonable ratio of cost to benefit which could be regulated rather simply based on information supplied to the division annually, thus avoiding an elaborate and costly actuarial review process.

Under the federal legislation, the Secretary of Health, Education and Welfare is required to establish a certification program with respect to the various states that policies issued in those states meet certain standards, unless a state has established a program to regulate the minimum standards and cost/benefit relationship as previously noted. The secretary is to base his actions on a study to be completed by July 1, 1981, so we are faced with an exceptionally short time frame to act and avoid this federal intrusion.

The proposal modifies the reasons under which the Division of Insurance may base the refusal of a filing of a contract form, to include an inappropriate relationship between the benefit provided and the cost of the coverage. This responds to the federal action concerning medicare supplemental policies. It also addresses other kinds of insurance subject to filing under AS 21.42.

We are prepared to offer testimony and/or respond to questions when this issue is heard before your committee.

Very truly yours,

Charles R. Webber
Commissioner

CRW/jarE8

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(b) Each filing shall be made not less than 30 days in advance of delivery. At the expiration of the 30 days the form filed shall be considered approved unless before the 30-day period it has been affirmatively approved or disapproved by order of the director. Approval of the form by the director constitutes a waiver of the unexpired portion of the waiting period. The director may extend by not more than an additional 30 days the period within which he may affirmatively approve or disapprove the form, by giving notice of the extension before expiration of the initial 30-day period. At the expiration of the extended period, and in the absence of a prior affirmative approval or disapproval, the form shall be considered approved. The director may at any time, after notice and for cause shown, withdraw the approval.

(c) An order of the director disapproving the form or withdrawing a previous approval shall state the grounds and the particulars in such detail as reasonably to inform the insurer thereof.

(d) The director may, by order, exempt from the requirements of this section for as long as he considers proper an insurance document or form or type thereof as specified in the order, to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(e) This section applies also to a form used by domestic insurers for delivery in a jurisdiction outside this state, if the insurance supervisory official of the jurisdiction informs the director that the form is not subject to approval or disapproval by the official, and upon the director's order requiring the form to be submitted to him for the purpose. The applicable same standards shall apply to these forms as apply to forms for domestic use. (§ 1 ch 120 SLA 1966)

Sec. 21.42.130. Grounds for disapproval. The director shall disapprove a form filed under § 120 of this chapter or withdraw a previous approval thereof, only if the form

(1) is in any respect in violation of or does not comply with this title;

(2) contains or incorporates by reference, where incorporation is permissible, an inconsistent, ambiguous, or misleading clause,

21.42.130

or exception and condition which deceptively affects the risk purported to be assumed in the general coverage of the contract;

(3) has a title, heading, or other indication of its provisions which is misleading;

(4) is printed or otherwise reproduced in a manner which renders a provision of the form substantially illegible. (§ 1 ch 120 SLA 1966)

Sec. 21.42.140. Standard provisions. (a) Insurance contracts shall contain the standard or uniform provisions which are required by the applicable provisions of this title pertaining to contracts of particular kinds of insurance. The director may waive the required use of a particular provision in a particular insurance policy form if

(1) he finds the provision unnecessary for the protection of the insured and inconsistent with the purposes of the policy; and

(2) the policy is otherwise approved by him.

(b) No policy may contain a provision inconsistent with a standard or uniform provision used or required to be used, but the director may approve a substitute provision which is, in his opinion, not less favorable in any particular to the insured or beneficiary than the provisions otherwise required.

(c) In lieu of the provisions required by this title for contracts for particular kinds of insurance, substantially similar provisions required by the law of the domicile of a foreign or alien insurer may be used when approved by the director.

(d) A provision required by this title to be contained in a policy cannot be waived by agreement between the insurer and another person. (§ 1 ch 120 SLA 1966)

Am. Jur., ALR and C.J.S. references.—29 Am. Jur., Insurance, §§ 186 to 188.

Departure from standard policy as affecting enforcibility of policy provision against insurer, 113 ALR 773.

44 C.J.S. Insurance §§ 249 to 261.

Sec. 21.42.150. Policy must contain entire contract. The policy, when issued, shall contain the entire contract between the parties, and neither the insurer nor its agent or representative, nor a person insured by the policy, may make an agreement as to the insurance which is not expressed in the policy. This section does not prohibit the modification of a policy, after issuance, by written rider or endorsement issued by the insurer. (§ 1 ch 120 SLA 1966)

Sec. 21.42.160. Contents of policies in general. (a) Each policy shall specify

(1) the names of the parties of the contract;

(2) the subject of the insurance;

(3) the risks insured against;

(4) the time v
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Sec. 21.42.190.
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(4) the society has a board of directors charged with the responsibility for managing its affairs in the interim between meetings of its supreme legislative or governing body, subject to control by the body and having powers and duties delegated to it in the constitution or laws of the society;

(5) the board of directors is elected by the supreme legislative or governing body, except in case of filling a vacancy in the interim between meetings of the body;

(6) the officers are elected either by the supreme legislative or governing body or by the board of directors; and

(7) the members, officers, representatives or delegates may not vote by proxy. (§ 1 ch 120 SLA 1966)

Sec. 21.84.590. Other provisions applicable. In addition to the provisions contained in this chapter, other chapters and provisions of this title shall apply to fraternal benefit societies, to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications thereof, as follows:

(1) AS 21.03
(2) AS 21.06, with the exception of AS 21.06.250
(3) The following sections of AS 21.09:
  (A) AS 21.09.050
  (B) AS 21.09.100
(4) AS 21.33.010
(5) AS 21.36
(6) AS 21.42.290
(7) AS 21.69.370
(8) AS 21.69.640
(9) AS 21.78. (§ 1 ch 120 SLA 1966)

Chapter 87. Hospital and Medical Service Corporations.

Section
10. Scope of chapter
20. Purpose and interpretation
30. Provisions exclusive
40. Incorporation—Certificate of authority required
50. Same—Law applicable; approval of articles of incorporation; amendment
60. Name of corporation
70. Qualifications for certificate of authority
80. Application for certificate of authority
90. Issuance or refusal of certificate of authority
100. Continuance or expiration of certificate of authority
110. Suspension or revocation of certificate of authority
120. Services and benefits which may be provided, medical service corporations
130. Services and benefits which may be provided, hospital service corporations
140. Medical service agreements
150. Hospital service agreements
160. Subscriber's contracts
170. Service agreements and subscriber's contracts must provide substantial service benefits
180. Filing and approval of agreements and contracts
190. Charges and rates
200. Reserves
210. Surplus fund
220. Investments

Section
230. Records and acc
240. Annual statemer
250. Examination
260. Taxation
270. Joint operations
280. Combined corpor
290. Contracts cover
compensation r

Sec. 21.87.010. S
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Am. Jur., ALR a
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Sec. 21.87.040.
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health care services is to be rendered to or on behalf of the subscriber by a physician or hospital that has entered into a service agreement with the corporation covering the services;

(7) "participant hospital" is one which has entered into a service agreement with a service corporation;

(8) "participant physician" means a doctor, dentist, osteopath, optometrist, chiropractor or other licensed health care practitioner who has entered into a service agreement with a service corporation; and

(9) "physician" includes also "surgeon." (§ 1 ch 120 SLA 1966)

Sec. 21.87.340. Other provisions applicable. In addition to the provisions contained or referred to previously in this chapter, the following chapters and provisions of this title also apply with respect to service corporations to the extent applicable and not in conflict with the express provisions of this chapter and the reasonable implications of the express provisions, and for the purposes of the application the corporations shall be considered to be mutual "insurers":

(1) AS 21.03
(2) AS 21.06
(3) AS 21.09
(4) AS 21.18.010
(5) AS 21.18.030
(6) AS 21.18.040
(7) AS 21.18.120
(8) AS 21.21.321
(9) AS 21.36
(10) AS 21.69.400
(11) AS 21.69.520
(12) AS 21.69.600, AS 21.69.620, and AS 21.69.630
(13) AS 21.78
(14) AS 21.90. (§ 1 ch 120 SLA 1966)

Sec. 21.87.350. Existing certificates of authority. A health care service contractor registered to do business in this state on July 1, 1966, is entitled to be registered under this chapter, whether or not it meets the requirements of this chapter. (§ 1 ch 120 SLA 1966)

Chapter 89. Miscellaneous Provisions.

Section
10. Settlements

Sec. 21.89.010. Settlements. A settlement made under a motor vehicle liability insurance policy of a claim against an insured arising under that policy from an accident or other event insured against for damage to or destruction of property owned by another person shall not be construed as an admission of liability by the

visions.

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overage. (a) An
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AS 28.20.440(b)(3)

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Curran v. Fireman's
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v. United Servs. Auto.
o. 799 (File Nos. 1454,
(1972).

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nittee report. — For
e report on ch. 172
5), see House Journal

Sec. 21.89.040. Eye care under health and accident insurance. All policies, contracts, or prepaid plans for individual or group accident or health insurance issued or delivered in the state on or after May 27, 1976 which provide reimbursement for any service within the lawful scope of practice of an optometrist licensed under AS 08.72, shall provide for reimbursement to persons covered under the policy, contract, or plan who had the service performed by an optometrist. (§ 1 ch 84 SLA 1976)

Sec. 21.89.050. Arson information. (a) When an insurer has reason to believe that a fire loss in which it has an interest may have been caused by other than accidental means, it shall immediately supply a written report of that fact to the Department of Public Safety.

(b) When requested in writing by an authorized agency, an insurer shall supply all available information relating to a particular fire loss to the agency. The information requested may include

(1) insurance policy information pertaining to a fire loss under investigation and any application for the policy;

(2) policy premium payment records;

(3) a history of previous claims made by the insured; and

(4) material relating to the investigation of the loss, including statements of a person who may have information about the loss and any proof of the loss.

(c) Notification to the Department of Public Safety under (a) of this section does not relieve the insurer of the duty to respond to a request for information from an authorized agency under (b) of this section.

(d) An authorized agency provided with information under (a) or (b) of this section may release the information to another authorized agency.

(e) An authorized agency shall share with the insurer all relevant information relating to an instance of suspected arson when

(1) the Department of Law has determined that release of the information would not jeopardize the success of an ongoing investigation and that there are adequate safeguards to insure the confidentiality of the information;

(2) the agency has completed its investigation and a decision not to prosecute has been made; or

(3) criminal prosecution has been brought and the defendant has pled guilty, or the jury or other trier of fact has returned a verdict, and no appeal has been taken.

(f) As used in (a) — (d) of this section "authorized agency" means a fire department, a local or federal law enforcement agency responsible for the investigation of fires, the Department of Law, the state fire marshal, the United States attorney's office, and the Department of Public Safety. As used in (e) of this section "authorized agency" means a fire department, a local law enforcement agency reponsible for the investigation of fires, the Department of Law, the state fire marshal, and the Department of Public Safety.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S B-43

Title An act relating ro filing insurance nolicv forms

Requested by governor Date 1-20-81

II. FISCAL DETAIL

Agency Affected Division of Insurance

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE 1-20-81

PREPARED BY Kenneth C. Moore, Div. of Insurance

AGENCY Commerce & Economic Development

PHONE 2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

SB

46

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 46, Rules by request

"An act relating to registration of construction contractors."

Bill ammends AS 08.18.011 relating to the registration process required for contractors to work in the State. Presently, this registration certificate is neccessary before an applicant is allowed to submit a bid. This ammendment changes this to say that the applicant does not have to have a certificate until he is awarded a contract. The second portion of the bill addresses a department name change from the Department of Commerce to the Department of Commerce and Economic Development.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:05 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 46 "An Act relating to registration of construction contractors."

Mr. Daryl Cody, for the Association of General Contractors testified in oposition to SB 46, stating that although this is a conformity issue, AGC does not feel it is imperative. AGC feels that Alaskan contractors should meet the qualifications and standards of our industry, and this proposed ammendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion. (tape reading 026 to 155)

Mr. John Scribner, with the Department of Labor testified in favor of SB 46, stating that the proposed changes simplify the bidding process and eliminates confusion. (tape reading 170 to 271)

Next on the agenda was SB 50 "An Act relating to unemployment insurance; and providing for an effective date."

Mr. Art Zillig, with the Department of Labor testified in favor of SB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity except one in section 3; substitute "and" instead of "for". Mr. Zillig continued by giving a section by section analysis. (tape reading 287 to 472)

Next on the agenda was SB 43 "An Act relating to insurance."

Chairman Mulcahy requested a motion to move CSSB 43. The members were in agreement with this.

The meeting was adjourned by Chairman Mulcahy at 3:30 P.M.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF TRANSPORTATION AND PUBLIC FACILITIES

DEPUTY COMMISSIONER – DESIGN AND CONSTRUCTION

POUCH Z
JUNEAU, ALASKA 99811

(907) 465-3900

3/11

February 9, 1981

200H-

RE: Senate Bill 46

Chairman,
Senate Transportation Committee
Senator Bill Ray
Pouch V
Juneau, Alaska 99811

Dear Senator Ray:

Recently, we were asked by a staff member on the Senate Transportation Committee for our comments on SB 46 relating to registration of construction contractors.

Under existing State law, a contractor must be registered prior to submitting a bid for a State funded project. State law also provides that for projects with federal funds, the federal funding agency regulations and laws supercedes State law. In our case, federal regulations for federal-aid highway contracts state:

> "No contractor shall be required by law, regulation or practice to obtain a license before he may submit a bid or before his bid may be considered for award of a contract."

In other words, contractors do not have to be registered before bidding on federal-aid contracts; however, registration is required prior to award of the contract. Hence, there is a difference between the requirements for State funded jobs and those using federal funds. This difference has caused confusion among the contractors in submitting their bids and resulted in delayed awards to contractors, and disqualification of otherwise responsible low bidders. In isolated cases, this has unnecessarily resulted in higher costs to the State.

As proposed in SB 46, State requirements would be brought into line with what is already the case in federal-aid contracts. This would eliminate the confusion during bid opening as to which procedure is in effect.

25A-T4LH

We have also checked with the Department of Commerce & Economic Development, and they have indicated that it takes them 7 to 10 days to issue a contractor's license after receipt of an application. Hence, we anticipate no problem in making award of contracts promptly after bids are opened and checked according to existing standard procedures.

In summary, it is our opinion that SB 46 would eliminate confusion during bid openings and will increase the number of qualified bidders on projects, which could result in cost savings to the State. We feel that this change will provide significant benefits to the State while having or no adverse impact on the contractors.

Sincerely,

R. D. Shumway, P.E.
Deputy Commissioner
Design & Construction

cc: Keith Specking
Legislative Assistant
Office of the Governor

Department of Commerce
& Economic Development

RDS/JWS/CSM/MDH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF OCCUPATIONAL LICENSING

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2534

January 26, 1981

Honorable Bob Mulcahy
Chairman, Senate Labor and
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 46

The Department of Commerce and Economic Development has reviewed Senate Bill 46, relating to registration of construction contractors.

This department supports SB46, as it conforms Alaska law to Federal Bidding Guidelines. Since the Division of Occupational Licensing only deals with the registration of contractors, not bidding processes, the minor program effects of this bill would result in amending contractor registration applications and statute booklets for public distribution to advise of this statutory change.

Additional funding is not needed to implement SB 46, since duplication costs for contractor registration renewals are budgeted for annually by the department.

Sincerely,

FOR Charles R. Webber
Commissioner

08-H8LH

January 12, 1981

President of t Senate
Alaska State Legislature
Pouch V . .
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill amending the construction contractor's registration statute. The bill amends AS 08.18.011 to remove an inconsistency between state law and federal regulations (23 C.F.R. 635.108(a)) for highway federal-aid projects and to allow the contract bid and award procedures to be the same for state and federal contracts. The amendment would change the requirement that a contractor be registered before submitting a bid for a public contract to a requirement that he or she be registered before being awarded the contract. Two minor, clean-up amendments are also included in the bill.

Sincerely,

S/JSH

Jay S. Hammond
Governor

...Chapter 245, SLA 1970 ... H. was identical to CSHB ... report on CSHB ... (Jud.), ... Journal Supplement No. ...

...Penalties.

...ons.

...ntractors.

...ensing Board (§§ 08.18.010 ... Licensing (§§ 08.18.100 — ... Miscellaneous Provisions ... 08.18.220), ... General ... .220 — 08.18.250)

Article 1. Registration.

Section

...tion
...istration required
...lication for registration
...trical contractors
...ate of registration—Issuance, ...ation, renewal

Section
41. Registration and renewal fees
51. Registered name
61. Requirements of political subdivision

Sec. 08.18.011. Registration required. It is unlawful for a person to submit a bid or work as a contractor until he has been issued a certificate of registration by the Department of Commerce. A partnership or joint venture shall be considered registered if one of the general partners or venturers whose name appears in the name under which the partnership or venture does business is registered. (§ 2 ch 100 SLA 1968)

Legislative committee report. — For ... Chapter 100, SLA 1968 (HCSSB 721 am ...) see 1968 House Journal, p. 545.

Anyone engaged in building trades ... be charged with awareness of the ... public system of licenses and permits designed to enhance the public safety and confidence in the industry. Sumner Dev. Corp. v. Shivers, Sup. Ct. Op. No. 984 (File No. 2036), 517 P.2d 757 (1974).

Sec. 08.18.021. Application for registration. (a) An applicant for registration as a contractor shall submit an application under oath upon ... form to be prescribed by the commissioner and which shall include the ...owing information pertaining to the applicant:

(1) employer social security number;

(2) type of contracting activity, whether a general or a specialty ...tractor and if the latter, the type of specialty;

(3) the name and address of each partner if the applicant is a firm or ...rtnership, or the name and address of the owner if the applicant is ... individual proprietorship, or the name and address of the corporate ...ficers and statutory agent, if any, if the applicant is a corporation.

(b) The information contained in the application shall be a matter of ...blic record and open to public inspection. (§ 2 ch 100 SLA 1968)

Sec. 08.18.026. Electrical contractors. (a) The department may not ...ue a certificate of registration as an electrical contractor to an ...plicant unless the applicant is, or has in his employ, a person currently ...used as an electrical administrator under AS 08.40.

(b) Each applicant for an electrical contractor's certificate of ...gistration may have more than one electrical administrator in his ...ploy.

(c) If the relationship of the only electrical administrator with a ...istered electrical contractor is terminated, the registration is void 30 ...ys after the next regularly scheduled examination unless the electrical ...ntractor has hired a licensed electrical administrator in the interim. ... ch 58 SLA 1977)

I. REQUEST

Bill/Resolution No. SB 46

Title An Act relating to registration of construction contractors.

Requested by Governor Date 12/11/80

II. FISCAL DETAIL

Agency Affected Department of Transportation and Public Facilities

Program Category Affected All

BRU, Program, or Subprogram(s) Affected

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

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Will simplify the procedures and reduce confusion. No quantifiable savings.

IV. DATE December 11, 1980 PREPARED BY J.W. Scribner

Dept. of Transportation and Public Facilities


SB
50

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY CS SB 50

SECTION 1: Pension payments are deductible from UI benefits only when a pension was maintained or contributed to by a base period employer, and the claimants service during that base period increased the amount of the pension. The claimants portion contributed to the pension will not be deducted from his benefits. This change brings us into conformity with PL 96-364.

Ammendment also distinguishes between pension payments and payments for dismissal pay, accrued vacation pay, sick leave or holiday pay. Any such payment attributable to a week will be deducted from benefits payable for that week.

SECTION 2: No benefits are payable for a waiting week, and no benefits are payable for a week of unemployment within the benefit year before the completion of a waiting week.

SECTION 3: This section makes both "good faith" and "hardship" a requirement for waiver of overpayments. Under the current provision, a person who has not acted in "good faith" may be absolved from liability for repayment if he can demonstrate "great hardship" would be the result of repayment.

SECTION 4: Extended benefits will be denied as individual who has been disqualified for regular benefits for voluntary quit, discharged for misconduct, or job refusal, unless the disqualification was terminated by subsequent employment.

Denial of extended benefits to persons who do not actively seek, apply for, or accept suitable work when referred such work. (Suitable work is specifically defined in these provisions. Disqualification can only be terminated by new employment of at least four weeks, and by earnings of four times the weekly benefit amount.

SUMMARY CS SB 50 cont.

SECTION 5: An individual who files an Interstate claim for extended benefits from a state in which an extended benefit period is not in effect, will receive only the first two weeks of extended benefits.

COMMENTS: The provisions of Section 1,2,4,and 5 are conformity issues to comply with Federal Law.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 166 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertantly excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

February 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:05 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 46 "An Act relating to registration of construction contractors."

Mr. Daryl Cody, for the Association of General Contractors testified in oposition to SB 46, stating that although this is a conformity issue, AGC does not feel it is imperative. AGC feels that Alaskan contractors should meet the qualifications and standards of our industry, and this proposed ammendment opens the process to irresponsible bidding, slows down the bidding, and creates confusion. (tape reading 026 to 155)

Mr. John Scribner, with the Department of Labor testified in favor of SB 46, stating that the proposed changes simplify the bidding process and eliminates confusion. (tape reading 170 to 271)

Next on the agenda was SB 50 "An Act relating to unemployment insurance; and providing for an effective date."

Mr. Art Zillig, with the Department of Labor testified in favor of SB 50, explaining that subsequent to drafting the original bill, Federal Government enacted legislation which required State compliance. CSSB 50 includes all the provisions of conformity except one in section 3; substitute "and" instead of "for". Mr. Zillig continued by giving a section by section analysis. (tape reading 287 to 472)

Next on the agenda was SB 43 "An Act relating to insurance."

Chairman Mulcahy requested a motion to move CSSB 43. The members were in agreement with this.

The meeting was adjourned by Chairman Mulcahy at 3:30 P.M.

COMMITTEE SUBSTITUTE FOR SENATE BILL NO. 50
SECTION BY SECTION ANALYSIS

Section 1: AS 23.20.362

This section repeals and re-enacts AS 23.20.362 with the following changes:

1) The pension deduction provision required by Sec 3304(a)(15), FUTA, is amended to conform with Public Law 96-364. Under this amendment, a pension would be deductible from benefits otherwise due only if the pension is provided under a plan maintained or contributed to by a base period employer, and the claimant's service in his base period increased the amount of, or affected his eligibility for, the pension or other retirement pay. In addition, that portion of the pension attributable to the claimant's own contributions will not be deducted from his benefit amount. Public Law 96-364 does not require these changes to state pension deduction provisions; rather, it allows the state this option of liberalizing the required provisions. However, the changes are equitable and would benefit Alaskan workers. For example, the previous provision required a 100% deduction even if part or all of the pension was based on employee contributions. This, in effect, penalized individuals for saving some of their wages by deducting amounts which had actually been earned long before the unemployment insurance claim was filed.

2) The proposed amendment also distinguishes between pension payments and payments received for dismissal pay, accrued vacation and sick leave, or holidays. The previous provision had the effect of prohibiting deductions for dismissal pay, vacation pay, or holiday pay unless the week began in a period for which such payment was made. The proposed amendment provides simply that any such payment attributable to a week will be deducted from benefits payable for that week. Sick leave has been added to the list of deductible payments. The rationale for deducting vacation pay, holidays, etc., applies to sick leave as well.

Section 2: AS 23.20.375(b)

This section repeals and re-enacts AS 23.20.375(b) to require a waiting week on all claims. The current provision waives the waiting week requirement on transitional claims. However, Public Law 96-499 now requires that any state which provides for payment "(at any time or under any circumstances) of regular compensation to an individual for his first week of otherwise compensable employment" will not be reimbursed for the federal share of the first week of extended benefits paid in the state. This requirement is not a standard for certification of state laws. The requirement must be met, however, if the state is to receive the 50% reimbursement of the federal share of the first week of extended benefits. This amendment conforms to Public Law 96-499.

Section 3: AS 23.20.390(b)

This section makes both "good faith" and "hardship" a requirement for waiver

of overpayments. The current provision allows an individual who has not acted in good faith to nevertheless be absolved from liability for repayment if he can show that great hardship would result from charging him with repayment.

Section 4: AS 23.20.406

This section amends AS 23.20.406 by adding new eligibility requirements for receipt of extended benefits. These requirements are conformity standards established by Public Law 96-499 and must be included in a state's law for weeks beginning after March 31, 1981, in order for the law to be certified by the Secretary of Labor on October 31, 1981, and thereafter.

The amendments require the following:

1) Denial of extended benefits to an individual who has been disqualified for regular UI benefits for voluntary quit, discharge for misconduct, or job refusal, unless the disqualification was terminated by subsequent employment.

2) Denial of extended benefits to an individual who does not actively seek, apply for, or accept suitable work when referred to such work. Suitable work is specifically defined in the provisions. The disqualification can be terminated only by new employment of at least four weeks and earnings of four times the weekly benefit amount.

Section 5: AS 23.20.408

This section amends AS 23.20.408 to specify that only the first two weeks of extended benefits are payable to an individual who files on an interstate basis from a state in which an extended benefit period is not in effect. This change is required, for certification of all state laws, by Public Law 96-364.

This amendment was requested by Alaska and introduced by Senator Stevens. House Joint Resolution No. 59 passed by Alaska's Legislature last year supported this change.

The provisions of Sections 1, 2, 4, and 5 are conformity issues to comply with federal law.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

February 10, 1981

Mr. Mike Thill
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

Pursuant to our telephone conversation earlier today, enclosed is a draft Committee Substitute for Senate Bill No. 50, relating to unemployment insurance benefits.

Alaska's unemployment insurance law is tailored after the federal law, and the Committee Substitute we are offering incorporates changes which were made to the federal law after Senate Bill No. 50 was drafted.

Also enclosed are a section by section analysis and fiscal note for this Committee Substitute.

If you have any questions, we would be pleased to meet with you at your convenience to explore this matter.

Thank you.

Sincerely,

Judy G. Knight
Special Assistant

Enclosures

07-G9LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

phone: 465-2700

January 20, 1981

Linda Otey
Senate Labor and Commerce Committee
Pouch 5
Juneau, Alaska 99811

Dear Ms. Otey:

I was pleased to meet with you on January 19 to review Senate Bill 50 dealing with the Department of Labor's unemployment insurance (UI) program.

During our meeting, you expressed an interest in the fiscal impact of Section 2 of Senate Bill 50 which provides for payment of extended U.I. benefits to interstate claimants only if they reside in a state which may also pay extended U.I. benefits. H.J.R. 59, (copy enclosed) which was passed during the last legislative session, endorsed this provision; and I am enclosing a copy of the fiscal note that was submitted.

If you have any questions on this, or if I may be of assistance to you in any other way, please do not hesitate to contact me (465-2700).

Thank you.

Sincerely,

Judy Knight

Judy Knight
Legislative Liaison

Enclosures

07-G9LH

January 12, 1981

President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to unemployment insurance. The bill amends existing law as follows:

Section 1 of the bill would conform the Alaska Employment Security Act with amendments to federal law enacted on September 26, 1980. The bill would provide that a deduction may be made from unemployment benefits for a pension received by an individual only if (1) the pension is derived from a plan maintained or contributed to by a base period employer; and (2) the services performed by the individual after the beginning of the base period affect eligibility for or increase the amount of the pension. The federal law also permits a state to pay unemployment benefits without deducting that portion of a pension which is attributable to contributions made by the individual. This change is equitable and is included in the bill for your consideration.

The bill would correct a deficiency in existing law by providing that payments for accrued vacation, sick leave or holidays and dismissal pay will be deducted from unemployment benefits for the week to which they are attributable.

Section 2 of the bill also would make state law conform to federal law as recently amended. This provision would prohibit payment of extended benefits under an interstate claim if the claim is filed in a state in which an extended benefit period is not in effect.

Section 3 of the bill would require a showing of both good faith and hardship before the department may forgive an indebtedness for overpayment of unemployment benefits. Existing law allows an individual who has not acted in good faith to be absolved from liability for repayment if he can show that hardship would result.

Sincerely,

-/JSH

Jay S. Hammond
Governor

I. REQUEST

Bill/Resolution No. House Joint Resolution 59

Title Restriction of Interstate Payments to Extended Benefit Claimants

Requested by Senate Finance, Senator Sackett Date 2/19/80

II. FISCAL DETAIL

Agency Affected All Agencies, Indirectly

Program Category Affected All, Indirectly

BRU, Program, or Subprogram(s) Affected All, Indirectly reduces General Fund Reimb. to U.I. Trust Fund.

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

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES		(18.3)	(29.3)	(32.7)	(35.0)	(36.7)
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	- 0 -	(18.3)	(29.3)	(32.7)	(35.0)	(36.7)

FUNDING (Thousands of Dollars)

GENERAL FUND	- 0 -	(18.3)	(29.3)	(32.7)	(35.0)	(36.7)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -
PART TIME						
TEMPORARY						

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

Assumptions:

1. this measure is adopted by the federal government.
2. Current state employment security act remains in effect. If Free Conference Committee Substitute for HB 177 passes savings are approximately 3 times as great.
3. Normal growth. Former state government employees continue to account for under 3% of all interstate EB payments.
4. EB payments remain at approximately the same level for the normal growth period and Washington, California, and Oregon do not trigger on.

ADDITIONAL INFORMATION

1. The amount saved by the state as an employer is very small compared to the amount saved by the UI trust fund and passed along to all state employers in reduced contribution rates. If Free Conference substitute for HB177 passes the savings to the UI trust fund would range from $2.7 million to 3.7 million per year between FY 81 and FY 85. With the current program, savings would be approximately $1 million per year.

IV. DATE February 20, 1980 PREPARED BY Jim Scully

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

COMMITTEE REPORT

SENATE

1/13/81

FURTHER:None

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 50

unemployment insurance

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

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Bob Blakemore

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Blakemore

CHAIRMAN

S 60 (Rev. 12/78)

Section 84, ch. 9, SLA 1980 provides: "Sections 54 and 63 of this Act take effect October 1, 1980, and apply to insured workers who establish a benefit year after September 30, 1980."

Sec. 23.20.360. Earnings deducted from weekly benefit amount. An eligible individual who is unemployed in a week shall be paid for that week a benefit in an amount equal to his weekly benefit amount, excluding the allowance for dependents, less 75 percent of that part of the remuneration, whether or not covered by this chapter, payable to him for that week which is in excess of $50. If the benefit is not a multiple of $1, it is computed to the next higher multiple of $1. (§ 713 ch 5 ESLA 1955; am § 26 ch 169 SLA 1957; am § 55 ch 9 SLA 1980)

Effect of amendment. — The 1980 amendment, effective October 1, 1980, rewrote the section.

Sec. 23.20.362. Disqualifying or deductible income. (a) The amount of benefits payable to an insured worker for a week of unemployment which begins in a period for which the insured worker is receiving a pension, annuity, or similar periodic payment which is based on the previous work of the insured worker, including work performed before the beginning of the insured worker's base period, or a payment to compensate him for a dismissal from employment without prior notice or for unused paid vacation or holidays, shall be reduced by the amount of the payment or compensation which is attributable to the week of unemployment.

(b) An individual is not entitled to benefits for a week of unemployment for which he has received or is seeking unemployment benefits under the employment security law of another state in a manner other than in accordance with the reciprocal arrangements with other states or the federal government. This subsection does not apply to an individual who is determined by the appropriate agency to be ineligible to receive unemployment benefits under the other employment security law.

(c) If, after a reduction of a benefit amount under (a) of this section, the weekly benefit amount is not a multiple of $1, the benefit amount shall be increased to the next higher dollar amount. (§ 56 ch 9 SLA 1980; am § 1 ch 145 SLA 1980)

Effect of amendment. — Section 1, ch. 145, SLA 1980, rewrote subsection (a).

Effective date. — Section 87, ch. 9, SLA 1980, makes this section effective October 1, 1980.

Editor's note. — Section 83, ch. 9, SLA 1980, effective March 14, 1980, provides: "AS 23.20.362(a) and (c) enacted in sec. 56 of this Act are repealed on the date that 26 U.S.C. 3304(a)(15) is amended or repealed."

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(6)" near the beginning of
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Sec. 23.20.378. Ab
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the credit of the unemployment fund, and the liability of the state is limited accordingly. (§ 1001 ch 5 ESLA 1955)

Sec. 23.20.370. Benefits of decedent or incompetent. Benefits due and payable to a deceased or judicially declared incompetent person shall be paid, in accordance with regulations prescribed by the department, to persons in the following order: spouse, child, or parent, payment to whom the department finds will carry out the purposes of this chapter. The regulations need not conform to the statutes applicable to the descent and distribution of decedents' estates. A receipt from the person to whom the department makes payment fully discharges the fund and the department from liability for the benefits. (§ 721 ch 5 ESLA 1955)

Sec. 23.20.375. Eligibility for benefits. (a) An insured worker is eligible for and shall receive waiting-week credit or benefits, as the case may be, for a week of his unemployment with respect to which he has not been determined to be disqualified under § 380 of this chapter, if the worker has, in accordance with regulations prescribed by the department with respect to the week,

(1) filed a notice of his unemployment;

(2) registered for work; and

(3) certified for waiting-week credit or filed a claim for benefits, as the case may be.

(b) No benefits are payable for a waiting week and no benefits are payable for a week of unemployment occurring within the benefit year before the completion of the waiting week, except that no insured worker is required to serve a waiting week if the first week of his unemployment occurring within a benefit year is immediately preceded by a week of unemployment in the preceding benefit year for which benefits are payable.

(c) Benefits based on service in employment defined in § 525(a)(4), (5) and (6) of this chapter are payable in the same amount, on the same terms and subject to the same conditions as compensation payable on the basis of other service subject to this chapter; except that benefits based on service in an instructional, research or principal administrative capacity in an institution of higher education as defined in § 520 of this chapter may not be paid to an individual for any week of unemployment which begins during the period between two successive academic years, or during a similar period between two regular terms, whether or not successive, or during a period of paid sabbatical leave provided for in the individual's contract, if the individual has a contract or contracts to perform services in any such capacity for any institution or institutions of higher education for both the aca-

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sider the degree of risk to the claimant's health, safety, and morals, his physical fitness for the work, his prior training and experience, his prior earnings, the length of his unemployment, his prospects for obtaining work at his highest skill, the distance of the available work from his residence, his prospects for obtaining local work, and other factors which influence a reasonably prudent person in the claimant's circumstances.

(c) This section shall be given the same meaning as the Secretary of Labor gives to § 3304(a) (5) of the Internal Revenue Code of 1954. (§ 742 ch 5 ESLA 1955)

For case decided under former law, see Aragon v. Unemployment Compensation Comm'n, 10 Alaska 524, 149 F.2d 447 (9th Cir. 1945), aff'd in part and rev'd in part on other grounds, 11 Alaska 236, 329 U.S. 143, 67 S. Ct. 245, 91 L. Ed. 136 (1946).

Am. Jur. reference.—48 Am. Jur., Social Security, Unemployment Insurance and Retirement Funds, § 35.

Sec. 23.20.390. Recovery of improper payments. (a) An individual who receives a sum as benefits from the unemployment compensation fund when not entitled to it under this chapter is liable to the fund for the sum improperly paid to him.

(b) As soon as the department has knowledge of payments of benefits to an individual under the circumstances mentioned in this section, it shall promptly prepare and deliver or mail to the individual at his last known address a notice of determination of liability declaring that the individual has been determined liable to refund the amount of benefits paid under the circumstances mentioned in this section. The amount, if not previously collected, shall be deducted from future benefits payable to the individual. However, if the department determines that an individual has died, or has acted in good faith in claiming and receiving benefits to which he was not entitled, and that great hardship would result from charging the individual with repayment of the benefits, the department may absolve the individual from liability to the fund for repayment of the benefits.

(c) For similar cause and in the same manner, a claim by another state for the recovery of sums paid as benefits under an employment security law of the other state is recoverable under this chapter if the sums were fraudulently obtained and the other state has a comparable provision in its employment security law for recovery of the sums on behalf of this state.

(d) If paid-out benefit sums have neither been repaid by the recipient nor deducted from benefits payable to him within six years following the last day of the year in which payment was made, the commissioner may declare the sums uncollectible and cancel both the resulting shortage and related records.

(e) An appeal from the determination of liability under this section may be made in the same manner and to the same extent as provided by this chapter for an appeal relating to a determination

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(b) The right to benefits is exempt from levy, execution, attachment, and any other remedy provided for the collection of debt.

(c) A benefit received by an individual, so long as it is not mingled with other funds of the recipient, is exempt from any remedy for the collection of all debts except debts incurred for necessities furnished to the individual or his spouse or dependents during the time when the individual is unemployed.

(d) A waiver of an exemption provided in this section is void. (§ 763 ch 5 ESLA 1955)

Funds cannot be "mingled" until they have been actually paid over to each claimant. Fidalgo Island Packing Co. v. Phillips, 16 Alaska 689, 149 F. Supp. 260 (D. Alas. 1957).

And until the funds become "mingled," the exemptions listed in this section preclude the impressing of the benefits due the claimants with any lien whatsoever. Fidalgo Island Packing Co. v. Phillips, 16 Alaska 689, 149 F. Supp. 260 (D. Alas. 1957).

Attorney fee does not constitute a lien on benefits.—Although the court may decide what is a just attorney fee, the social purpose of the Employment Security Act would be impaired if the attorney fee were to constitute a lien upon the benefits. Fidalgo Island Packing Co. v. Phillips, 16 Alaska 689, 149 F. Supp. 260 (D. Alas. 1957).

Application of "salvage" theory to unemployment compensation benefits. —See Fidalgo Island Packing Co. v. Phillips, 16 Alaska 689, 149 F. Supp. 260 (D. Alas. 1957).

Article 6A. Extended Unemployment Compensation.

Section
406. Extended benfits; eligibility
407. Weekly extended benefit amount; total payable
408. Extended benefit periods
409. Definitions

Sec. 23.20.406. Extended benefits; eligibility. (a) Except when the result would be inconsistent with other provisions of this chapter, the provisions of this chapter which apply to claims for or the payment of regular benefits apply to claims for and the payment of extended benefits.

(b) An individual is eligible to receive extended benefits with respect to any week of unemployment in his eligibility period if the department finds that with respect to that week

(1) he is an "exhaustee" as defined in § 409(5) of this chapter; and

(2) he has otherwise satisfied the requirements of this chapter for the receipt of regular benefits. (§ 1 ch 1 SLA 1971)

Sec. 23.20.407. Weekly extended benefit amount; total payable. (a) The weekly extended benefit amount payable to an individual for a week of total unemployment in his eligibility period is an amount equal to the weekly basic or augmented benefit amounts payable to him during his applicable benefit year.

(b) The total extended benefit amount payable to any eligible individual with respect to his applicable benefit year is the least of the following amounts:

(1) 50 per cent of the total amount of regular benefits, including dependents' allowances, which were payable to him under this chapter in his applicable benefit year;

(2) 13 times his average weekly benefit amount, including dependents' allowances, which was payable to him under this chapter for a week of total unemployment in the applicable benefit year; or

(3) 39 times his average weekly benefit amount, including dependents' allowances, which was payable to him under this chapter for a week of total unemployment in the applicable benefit year, reduced by the total amount of regular benefits which were paid or considered paid to him under this chapter with respect to the benefit year. (§ 1 ch 1 SLA 1971)

Sec. 23.20.408. Extended benefit periods. (a) When an extended benefit period is to become effective in this state as a result of a state or national "on" indicator, or an extended benefit period is to be terminated in this state as a result of either a state "off" indicator or a national "off" indicator, the department shall make an appropriate public announcement.

(b) No extended benefit period may begin by reason of a state "on" indicator before the 14th week following the end of a prior extended benefit period which was in effect with respect to this state.

(c) Within the period beginning with January 29, 1971 and ending on December 31, 1971, an extended benefit period may become effective and be terminated in this state solely by reason of a state "on" and a state "off" indicator, respectively.

(d) There is a national "on" indicator for a week if the United States Secretary of Labor determines that for each of the three most recent calendar months ending before that week, the rate of insured unemployment, seasonally adjusted, for all states equaled or exceeded 4.5 per cent.

(e) There is a national "off" indicator for a week if the United States Secretary of Labor determines that for each of the three most recent calendar months ending before that week, the rate of insured unemployment, seasonally adjusted, for all states was less than 4.5 per cent.

(f) There is a state "on" indicator for a week if the department determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter

(1) equaled or exceeded 120 per cent of the average of those rates for the corresponding 13-week period ending in each of the preceding two calendar years; and

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(g) There is a state "off" indicator for a week if the department determines, in accordance with the regulations of the United States Secretary of Labor, that for the period consisting of that week and the immediately preceding 12 weeks, the rate of insured unemployment, not seasonally adjusted, under this chapter

(1) was less than 120 per cent of the average of those rates for the corresponding 13-week period ending in each of the preceding two calendar years; or

(2) was less than four per cent.

(h) In (f) and (g) of this section "rate of insured unemployment" means the percentage derived by dividing (1) the average weekly number of individuals filing claims in this state for weeks of unemployment with respect to the most recent 13 consecutive week period, as determined by the department on the basis of its reports to the United States Secretary of Labor, by (2) the average monthly employment covered under this chapter for the first four of the most recent six completed calendar quarters ending before the close of that 13-week period. Computations required by this subsection shall be made by the department in accordance with regulations prescribed by the United States Secretary of Labor. (§ 1 ch 1 SLA 1971)

Sec. 23.20.409. Definitions. In §§ 406—409 of this chapter

(1) "extended benefit period" means a period which

(A) begins with the third week after whichever of the following weeks occurs first:

(i) a week for which there is a national "on" indicator, or

(ii) a week for which there is a state "on" indicator; and

(B) ends with either of the following weeks, whichever occurs later:

(i) the third week after the first week for which there is both a national "off" indicator and a state "off" indicator; or

(ii) the 13th consecutive week of that period;

(2) "regular benefits" means benefits payable to an individual under this chapter or under any other law, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. chapter 85, other than extended benefits;

(3) "extended benefits" means benefits, including benefits payable to federal civilian employees and to ex-servicemen under 5 U.S.C. chapter 85, payable to an individual under the provisions of §§ 406—409 of this chapter for weeks of unemployment in his eligibility period;

(4) "eligibility period" of an individual means the period consisting of the weeks in his benefit year which begin in an extended

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS for SB 50 (Labor & Commerce)
Title "An Act relating to Unemployment Insurance; and providing for an . . ."
Requested by Labor & Commerce Committee Date 2/9/81

II. FISCAL DETAIL
Agency Affected All agencies, indirectly
Program Category Affected All, indirectly
BRU, Program, or Subprogram(s) Affected All, indirectly reduces Gen. Fund Reimb. to UI Trust Fund
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	(30)	(136)	(153)	(168)	(178)	(191)
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	(30)	(136)	(153)	(168)	(178)	(191)

FUNDING (Thousands of Dollars)

GENERAL FUND		(30)	(136)	(153)	(168)	(178)	(191)
FEDERAL FUNDS							
OTHER (Specify Fund Source)							

POSITIONS

FULL TIME		0	0	0	0	0	0
PART TIME							
TEMPORARY							

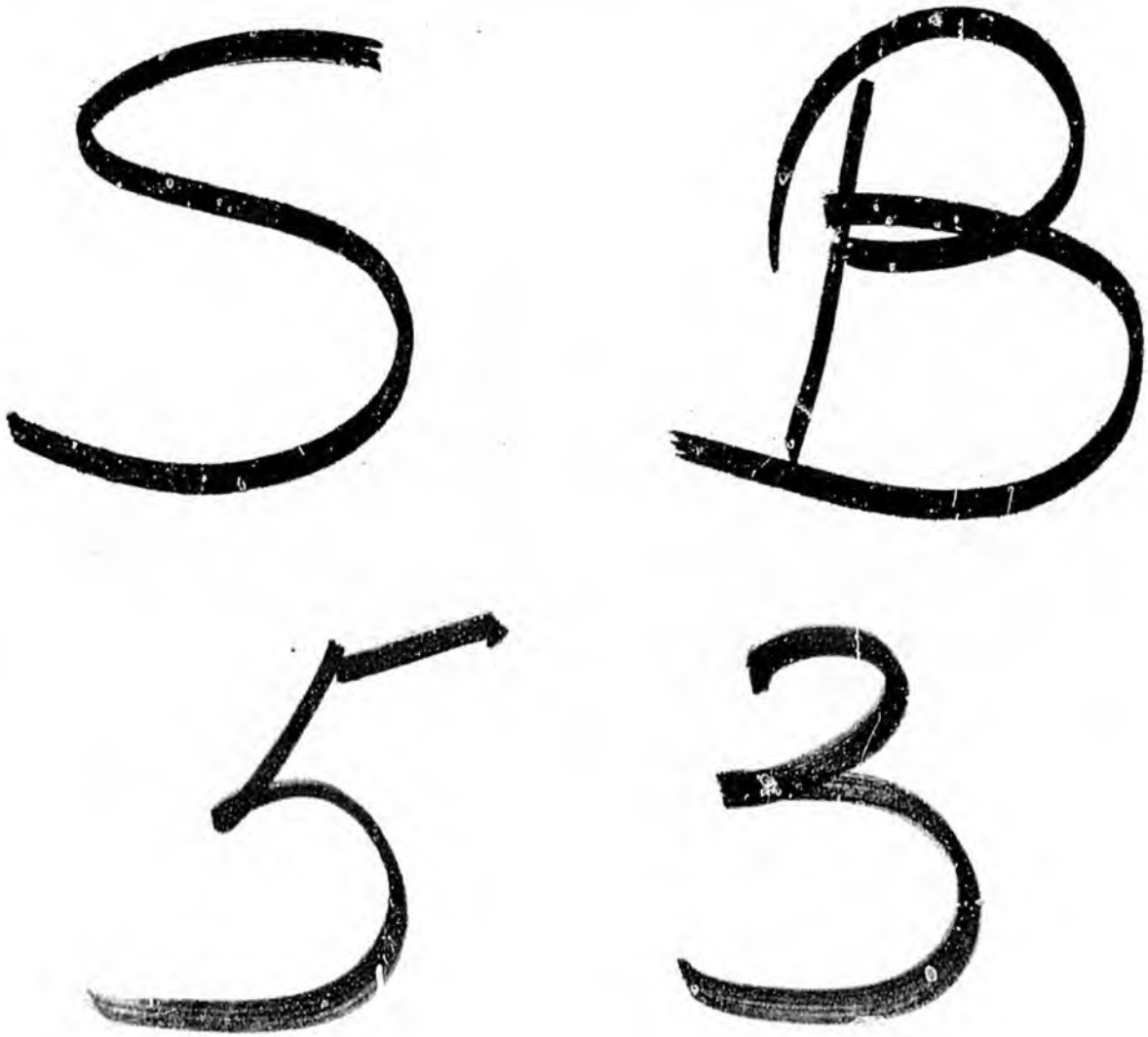
III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
Assumptions:

1. Pension provisions have too small an effect to evaluate.
2. Waiting weeks provision too small to evaluate.
3. Hardship cases too small to evaluate.
4. Approximately 20% of EB weeks claimed will be eliminated by a work acceptance requirement.
5. Approximately 10% of EB weeks paid will be eliminated by the Intrastate restriction and Washington, Oregon, and California will not be triggered on to the EB after 7/1/81.
6. Approximately 6% of EB payments made are billed to state. (Including University of Alaska and Geophysical.)
7. Effective date will be 4/1/81.

IV. DATE February 9, 1981 PREPARED BY Nico Bus
AGENCY Finance Officer
PHONE 465-2720

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

33-001 (Rev. 12/80)


SB
53

(f) Repealed by § 10 ch 1 SSSLA 1980 and § 9 ch 2 SSSLA 1980. (§ 1 ch 70 SLA 1975; am § 2 ch 110 SLA 1978; am §§ 8—11 ch 113 SLA 1980; am § 10 ch 1 SSSLA 1980; am § 9 ch 2 SSSLA 1980)

Effect of amendments. — The 1978 amendment added a former third sentence of subsection (e).

Section 8, ch. 113, SLA 1980, the first 1980 amendment, effective June 21, 1980, and retroactive to January 1, 1950, in former subsection (c), made numerous changes in the tax column of the table. Sections 9 and 10 of ch. 113 rewrote former subsection (d) and subsection (e). Section 11 of ch. 113, effective June 21, 1980, and retroactive to January 1, 1979, added former subsection (f).

The second 1980 amendment, effective September 25, 1980 and retroactive to January 1, 1980, repealed subsections (a)-(d) and (f), concerning income tax on individuals and fiduciaries.

The third 1980 amendment, effective September 25, 1980, and retroactive to January 1, 1979, made the same changes as the second 1980 amendment.

Editor's note. — As to legislative findings and intent, see § 1, ch. 110, SLA 1978, in the 1978 Temporary and Special Acts and Resolves.

Section 4, ch. 110, SLA 1978, provides: "This Act applies to taxable income earned or received after December 31, 1977."

Section 52, ch. 113, SLA 1980, effective June 21, 1980, makes sections 5—10 of the Act applicable to tax years beginning after December 31, 1979. Section 51 of the Act, effective June 21, 1980, makes section 11 of the Act applicable to tax returns for tax years beginning after December 31, 1978.

For legislative findings and purpose of the second and third 1980 amendments, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 43.20.012. Limitation on application of chapter; credits. The tax imposed by this chapter does not apply to individuals or to fiduciaries. However, an individual may file a return under this chapter in order to receive a tax credit under AS 43.20.013. (§ 2 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Effective date. — Section 13, ch. 1, SSSLA 1980, and § 11, ch. 2, SSSLA 1980, provide that this section take effect September 25, in accordance with AS 01.10.070(c). Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, provides that this section is retroactive to January 1, 1979.

Editor's note. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Repealed.

Sec. 43.20.013. Individual tax credits. (a) [Effective until January 1, 1981] A resident individual is entitled to a tax credit not to exceed $50 for

(1) A contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(a) [Effective January 1, 1981] A resident individual is entitled to a tax credit not to exceed $100 for

(1) a contribution made in a calendar year to a person or organization for use exclusively

(A) for a political campaign for a candidate for

(i) President or Vice President of the United States, whether or not the candidate will be voted on in a primary election in Alaska;

(ii) United States senator from Alaska;

(iii) United States representative from Alaska;

(iv) governor or lieutenant governor of Alaska;

(v) the Alaska legislature;

(vi) delegate to an Alaska constitutional convention;

(vii) electoral confirmation as a judge or justice of a court in Alaska; or

(viii) municipal office in Alaska; or

(B) by a group seeking to influence the outcome of a ballot proposition or question in Alaska; and

(2) dues paid in a calendar year to a nonprofit organization organized primarily for the purpose of influencing elections in Alaska.

(b) A resident individual is entitled to a tax credit equal to 16 percent of the tax credit claimed by the individual on his federal income tax return for household and dependent care services necessary for his gainful employment.

(c) The commissioner of revenue shall pay the amount of a tax credit allowed by this section to a resident individual who makes a return as provided in AS 43.20.012. A credit under this section shall be paid in the manner provided in AS 43.20.030(e) for the payment of refunds and payment may not be made without an appropriation for that purpose. (§ 2 ch 1 SSSLA 1980; am § 9 ch 1 SSSLA 1980; § 2 ch 2 SSSLA 1980)

Repealed by SB 53

Effect of amendment. — Section 9, ch 1, SSSLA 1980, effective January 1, 1981, substituted "$100" for "$50" in the introductory language of subsection (a).

Effective date. — Section 13, ch. 1, SSSLA 1980, and § 11 ch. 2, SSSLA 1980, provide that this section take effect September 25, in accordance with AS 01.10.070(c). Section 12 of ch. 1 provides that this section is retroactive to January 1, 1980, and § 10 of ch. 2, provides that this section is retroactive to January 1, 1979.

Editor's note. — For legislative findings and purpose of the enacting legislation, see § 1, ch. 1, SSSLA 1980, and § 1, ch. 2, SSSLA 1980, in the Temporary and Special Acts and Resolves.

-SB 53 would add Sec. 3

Sec. 43.20.015. Individ

Repealed by § 10 ch 1 effective September 25, 19

Editor's note. — The repealed derived from : 1, ch. 144, SLA 1 For legislative findings and p

Sec. 43.20.016. Sharin municipalities. (a) There Revenue the municipal ass ate to the fund during eac than 10 per cent of the inc AS 43.20.011(e) and ch. 21 Department of Revenue sh organized borough and ea provided in (b) and (c) of t

(b) The base amount to b and city for the fiscal year or city during fiscal year amount appropriated to th section is insufficient for Department of Revenue distribution on the basis o under AS 43.70.080. A city after June 30, 1977 shall amount distributed to the ratio of population in the ci city incorporated outside shall receive as a base am state most closely approxi incorporation. A borough ir as a base amount the amo closely approximating it in

(c) If the amount in the base amount to be distrib amount shall be distribute population. For the purpos within an organized bor the borough. Population, certified by the commissio

(d) The intent of (c) of th levy property taxes reduce amount of increased stat governing body of each loca tax statement describing i SLA 1978)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 82
Title An Act repealing the campaign contribution tax credit for individuals
Requested by Senate Finance Committee Date 1/22/81

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection And Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) - None

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) - None

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS - None

FULL TIME						
PART TIME						
TEMPORARY						

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

There will be no effect on the administrative costs of the audit division from the repeal of the refundable credit provisions. This bill would repeal both the political contribution and child care credits.

IV. DATE 2/3/81 PREPARED BY [signature]
AGENCY Audit Division
PHONE 465-2320

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

33-001 (Rev. 12/80

THE LEGI' ATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 82
Title Repealing the campaign contribution tax credit for individuals
Requested by Senate Finance Committee Date 1/21/81

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Savings to the State (Political contributions and child care.)		(1.63)	(2.8)	(2.8)		

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The aforementioned figures reflect the projected upward adjustment in the political contribution credit from $50 to $100.

The figures indicated the savings to the State as a result of repeal of the refundable credit portion of AS 43.20.013. Claims for refundable tax credits for 1979 and 1980 would be permitted and payments would be made on those claims.

IV. DATE 1/21/81 PREPARED BY Vincent D. Wright
AGENCY Revenue
PHONE 465-2391

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

33-001 (Rev. 12/80

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

February 4, 1981

The Honorable Vic Fischer
Chairman
Senate State Affairs Committee
Room 205 - Behrends Building
Juneau, Alaska

Re: Senate Bill No. 82

Dear Senator Fischer:

Senate Bill No. 82, an Act repealing the campaign contribution tax credit for individuals, was introduced in the Senate on February 4, 1981 and was referred to the Senate Finance Committee. Subsequently, an January 16, 1981 the Bill was given an additional referral to the Senate State Affairs Committee.

For the consideration of the Senate State Affairs Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary Jenkins, Director, Audit Division and Vincent Wright, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary Jenkins, Director
Audit Division
Department of Revenue

Vincent Wright
Research Section
Department of Revenue

04-D2LH

Why we wind up with candidates on the auction block

ELECTION FINANCE



howard weaver

You have to ask yourself why a candidate would spend $34,000 chasing a $17,000 job — even if it does come with a two year contract.

That actually happened this year. One candidate has paid out more of his own money than he reasonably stands to make in the job, what with taxes and all that. Although the numbers get a little fuzzy when you add in expense allowances and per diem payments, it's pretty clear that being a state representative is worth a pile of money to this guy.

Election morning is no time to start picking on one particular candidate, however, so I'm not naming names here. That's not the important part of this story, anyhow.

What is important is the question of why Alaska legislative jobs are worth such big bucks to the contenders these days. Although the $34,000 example is striking because so much of the loot came out of the candidate's own pocket, the pattern is no less evident in dozens of other cases. Expensive, sophisticated campaigns have reached right down to the most basic levels of government.

You can understand a U.S. Senator, maybe, shelling out top dollar on a statewide race involving a six-year term, although even that falls short of justifying the million-dollar budgets that race now commands. It's harder yet to figure why a municipal assembly or state House seat should carry a price tag that reaches well into five figures.

It's hard to blame it on the candidates; anybody who's serious about winning pretty much has to pony up. If your opponent is going to buy TV ads and hire pollsters, you need to do it yourself. You can complain about style being worth more than substance, but you can't change the fact that it's true.

That reality usually leads to learned commentary about how the voters are the only people who can change the election auction system. Voters must ignore the expensive campaign packaging, study "the issues" and cancel the advantages of the big-money candidates. They say it is everybody's responsibility, which is another way of saying it's nobody's responsibility at all.

There is one way out of that box. It's called public financing.

People with plenty of money are usually opposed to public financing, and that's the way it breaks down in Alaska. When the legislature kept a state rebate for contributions up to $50 per person even though there's no longer a tax to charge them against, people who have enough money of their own to donate started yelling.

It used to be that people who gave money to qualified candidates or causes could charge it off against their tax bill. When the income tax was repealed, legislators adopted a substitute provision that says the state will still send you up to $50 if you make a contribution.

That's really just a fairly simple way of establishing partial public financing. It still allows political action committees and labor union "voter education funds" to deliver big dollars to favored candidates, but it at least allows the rest of us to make small contibutions. Essentially, we make the decision about who gets the $50 and the state picks up the tab.

I think that's better than nothing, but I'd rather see us take the next step — fully financed elections. People have argued for years that it can't work, but the last two presidential campaigns have proved it can. I figure if we can run $29 million, nationwide campaigns with public financing, we can do that in Alaska, too.

There will be people violently against it, though — people who'd rather keep the candidates up on the auction block. When you start hearing what a bad idea public financing is, do me one favor and take a good look at who's behind that talk. I'll bet they make more money than you and I do.


SB
60

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 60:

Upon determination by the administrator of the TRS and PERS that there has been an increase in the cost of living (Anch CPI), then the administrators shall increase retirement benefits. TRS and PERS retirement increase will be the same as the Anchorage CPI percentage increase.

By aligning TRS and PERS retirement systems with the Anchorage CPI, the following fiscal impacts would occur:

FISCAL IMPACTS:

PERS increases:	FY 82:	$89,340,100.00
(State)	FY 83:	$98,274,200.00
	FY 84:	$108,101,600.00
	FY 85:	$118,911,700.00
	FY 86:	$130,802,900.00
PERS increased costs to political subdivisions:		
	FY 82:	$76,700,000.00
	FY 83:	$84,370,000.00
	FY 84:	$92,807,000.00
	FY 85:	$102,087,700.00
	FY 86:	$112,296,470.00

TOTAL PERS estimated Payroll: State

FY 82: $296,614,000.00

Increase in State contribution rate: 30.12% of covered State PERS payroll.
Actuary estimates future State PERS payroll to increase 10% annually.
Actuary estimates long term inflation rate of 7.5%.

The assumed 10% annual increases are analytical projections related to salary increases through union negotiations, annual merit increases, and longevity and promotional increases.

FISCAL IMPACTS:

TRS INCREASES: (State)	FY 82:	$75,452,300.00
	FY 83:	$82,997,500.00
	FY 84:	$91,297,200.00
	FY 85:	$100,426,900.00
	FY 86:	$110,469,600.00

TRS INCREASES: (School Districts)		
	FY 82:	$52,346,300.00
	FY 83:	$57,580,930.00
	FY 84:	$63,339,023.00
	FY 85:	$69,672,925.30
	FY 86:	$76,640,217.83

Actuary Assumptions:

1. Estimated FY 82 Payroll (Total System): $261,775,000.00
2. State contribution rate to fund bill: 24.41%
3. State TRS matching rate to fund bill: 24.41%
4. School district rate to fund bill: 24.41%

Cost to State in FY 82 $75, 452,300.00
School district costs: $52,346,300.00

TOTAL Cost in FY 82: $127,798,600.00

FURTHER COSTS:

Dept. of Education	Payroll		Rate	Cost	Appropriation
	$ 4,712,000	x	24.41%	$1,150,200	To budget
Univ. of Alaska	$ 42,617,000	x	24.41%	$10,402,800	To Budget
				$11,553,000	

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 60 Research:

Alaska retired teachers have the best retirement system (benefits) in the Nation. The problem originated because the retirement system when implimented was extremely comprehensive, and as the inflationary spiral accelerated, the benefits decreased in a relative sense. Retired teachers had become accustomed to excellent benefits and naturally would be quite dissatisfied with anything less. Paul Arnold, the Dir. of the Div. of Retirement states that these are the background influences to SB 60.

Cost of the Retirement system is represented by a percentage of pay; presently:

7% is contributed by employee from his pay

8.42% is contributed by the school district

8. 42% is contributed by the State as a match with the School

Total 23.84%

By aligning TRS with Anchorage COLA, there would be a 48.82% addition totaling 72.66%

COST OF LIVING ALLOWANCE: A retired teacher, with a permanent ressidence in Alaska (temporary absence not to exceed 60 days) is entitled to receive a cost of living allowance of 10% of his retirement benefit. (in addition to his normal retirement benefits)

POST RETIREMENT ADJUSTMENT: Adjustment promulgated by regulation and payable to a retired teacher when the administrator determines that the cost of living has increased and the financial condition of the fund permits payment of the adjustment. The amount shall not exceed 4% compounded for each year on retirement.

PRESENTLY There are 2 Retirement Adjustment systems enacted by Statute.

1. COST OF LIVING ALLOWANCE A retired Teacher whose permanent residence is in Alaska subsequent to retirement, or whose absence does not exceed 60 days, is entitled to recieve a cost of living allowance of 10 % of his retirement benefit. (in addition to this retirement)

A retired public employee who remains in Alaska is elligible for a cost of living allowance equal to 10% of his retirement benefit, or $50 a month, whichever is greater.

2. POST RETIREMENT PENSION ADJUSTMENT The commisioner of Administration may recommend post-retirement increases, on account of increasing cost of living up to 4% per year. This Pension adjustment covers both TRS and PERS.

The commissioner of Administration recommended these increases for the years 1969-1977:

1969- 1½%
1970- 1½%
1971- 1½%
1972- none
1973- 2½%
1974- 3%
1975- none
1976- none
1977- none

} 10%

In 1978 the commissioner retroactively granted a 4% increase for each year since 1969. This was off-set by any previously granted pension adjustments. 4% increases were also granted for 1979 and 1980. The increase in benefits over this 12 year period was 48% while the total increase in the Anchorage CPI was 131.20%

PRESENT CONTRIBUTION RATES TO THE TRS:

The cost of the retirement system [illegible]S is represented by a percentage of pay; presently

7% is contributed by employee from his pay
8.42% is contributed by the school district
8.4[illegible] is contributed by the State
Total: 23.84%

PRESENT CONTRIBUTION RATES TO PERS

PEACE OFFICERS RET. SYS: Members contribute 5% of their pay

PERS Members contribute 4½% of their pay

The employer contributes the balance.

CONTRIBUTION INCREASES proposed by SB60 Fiscal implications:

TRS 48.82% increases

PERS 30.12% increases

TEACHERS RETIREMENT SYSTEM:

	1976	1977	1978	1979	1980
(1) Number of Retirees:	793	891	1,072	1,136	1,245
(2) Average Age:	63.55	63.39	62.71	62.95	63.0
(3) Average Monthly Benefit	$720	$749	$787	$807	$849
A. COLA	$40	$42	$46	$46	$50
B. PRPA	$20	$70	$141	$129	$145
(4) TOTAL:	$780	$861	$974	$982	$1,044

PUBLIC EMPLOYEES RETIREMENT SYSTEM:

	1977	1978	1979	1980
(1) Number of Retirees	1,339	1,683	2,019	2,314
(2) Average Age	63.38	62.82	62.94	63.03
(3) Average Monthly Benefit:	$378.00	$427.00	$454.00	$471.00
A. COLA	$34	$37	$37	$39
B. PRPA	$3	$34	$28	$36
(3) Total:	$416	$498	$519	$546

SAMPLE MONTHLY RETIREMENT BENEFITS

AVERAGE MONTHLY COMPENSATION	YEARS OF SERVICE	× 2%	× 2½%
$1000	5	$100.00	$125.00
$1500	✓	$150.00	$187.50
$2000	✓	$200.00	$250.00
$3000	✓	$300.00	$375.00
$4000	✓	$400.00	$500.00
$5000	✓	$500.00	$625.00
$1000	15	$300.00	$375.00
$1500	✓	$450.00	$562.50
$2000	✓	$600.00	$750.00
$3000	✓	$900.00	$1125.00
$4000	✓	$1200.00	$1500.00
$5000	✓	$1500.00	$1875.00
$1000	25	$500.00	$625.00
$1500	✓	$750.00	$937.50
$2000	✓	$1000.00	$1250.00
$3000	✓	$1500.00	$1875.00
$4000	✓	$2000.00	$2500.00
$5000	✓	$2500.00	$3125.00
$2000	30	$1200.00	$1500.00
$3000	✓	$1800.00	$2250.00
$4000	✓	$2400.00	$3000.00
$5000	✓	$3000.00	$3750.00

Survey of other states provisions for cost of living adjustments. (PRPA)

State	Remarks
Illinois	Post retirement increases of 3% granted each Jan 1.
Kansas	[illegible] provisions for COLA
Utah	Cost of living is 4% of original retirement allowance annually.
California	3% compounded annually.
New York State	4.1% Post Retirement Supplement was paid in fiscal 79.

Quick review of other states benefit formulas.

State	Percentage or other	Salary basis	Years of Service
California	2% ×	Final compensation ×	Years credited servic
Oregon	1% ×	✓ ✓ ×	First 10 yrs
✓	1.1% ×	✓ ✓ ×	Second 10 yrs
✓	1.3% ×	✓ ✓ ×	Third 10 yrs.
Alabama	2.0125% ×	✓ ✓ ×	Years of service
Kansas	2.0% ×	✓ ✓ ×	Years of service
New York State	Either 50% ×	✓ ✓	Based on 30 yrs servic
	↓ or 1/50 (2%) ×	✓ ✓	Years of service.
Utah	2.0% ×	✓ ✓	Years of service.

PROBLEMS: If this bill becomes Law, the State's contributions to PERS and TRS will more than triple. The necessity of further enhancing retirement benefits which are already the best in the nation places a monetary burden on the State for the distribution of Public funds to a disproportionatly small group of people. The Dept. of Admin suggests that the large benefits our retirees recieve are in actuality a form of hedge against inflation.

The Governor has indicated that he will veto such large increases in the retirement system, and on the House Side, with HB 121 in State Affairs Committee, Mike Miller set up a sub committee to arrive at a compromise.

Governors Response:

1. The Governor says that a compromise increase for both PERS nd TRS would be acceptable. 15 to 20 million dollars

2. The Governor feels that Public employees and teachers should participate thru contributions of 1½ to 2%. The union, public employees, and teachers can accept that rate.

3. Increases should be only to persons on fixed incomes; age 65 or older.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burder on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative
Services

Paul B. Arnoldt, Director
Division of Retirement and
Benefits

Sandra Withers, Director
Division of Labor Relations

1.1 BRIEF OUTLINE OF THE ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) Effective Date

January 1, 1961, with amendments through July 1980.

(2) Administration of Plan

The Commissioner of Administration is responsible for administration of the System, Public Employees' Retirement Board adopts rules and regulations to carry out provisions of the Act, and Commissioner of Revenue invests the Fund. The Attorney General is the attorney for the System and represents it in legal proceedings.

(3) Employers Included

State of Alaska and any political subdivisions and public or quasi-public organizations thereof. As of January 1, 1980, there were 83 participating employer groups in addition to the State for which separate contribution rates are determined.

(4) Employees Included

All permanent full-time or part-time employees of the State and participating political subdivisions, exclusive of those covered by the Alaska Teachers' Retirement System, the Alaska Judges' System, or any employee on whose behalf the State is making contributions to another Retirement System. Elected officials may elect to participate at their option.

(5) Service Considered

Future:

The later of hire, 1/1/61, or date of employers' participation in the System, to date of termination, death, or retirement. Up to 5 years of military service may be recognized if claimed, verified, and appropriate employee contribution paid. Permanent part-time employees receive service credit on a pro-rata basis.

Past:

Service credit for all service with State and Territory prior to January 1, 1961, if the employee completed three years of service after January 1, 1961. Elected official has past service credit only if he pays contributions for all of his service after January 1, 1961. Service with political subdivision prior to its participation in the System is included at the option of the political subdivision.

Break in Future Service:

Any termination. But if employee returns and makes contribution equal to refund paid plus interest, the service before the break is reinstated.

(6) Average Monthly Compensation

Total compensation during three consecutive calendar years of credited service which yield the highest average monthly compensation (total compensation during period divided by number of months included).

(7) Employer Contributions

Separate contribution rate for each employer equal to the sum of:

(1) Consolidated Rate

A uniform rate for all participating employers sufficient to amortize all future service liabilities (less value of employee contributions) over the future working lifetimes of the covered group.

(2) Past Service Rate

A rate determined separately for each employer sufficient to amortize such employer's unfunded past service liabilities over 25 years.

(8) Employee Contributions

Mandatory Employee Contributions: Police & Fire - 5%
Other - 4 1/4%

Interest Credited: 4 1/2% compounded semi-annually on June 30 and December 31.

Refund at Termination (no vesting): Return of voluntary and mandatory contributions with interest.

Refund at Death: If no widow's pension payable, return of voluntary and mandatory contributions with interest.

(9) Normal Retirement Benefit

Eligibility: The first of the month following the earlier of: age 55 with 5 or more years of Credited Service; or 20 years Credited Service - Police & Fire, or 30 years Credited Service - Other.

Type:

Life only with optional joint and survivor benefit (actuarially reduced).

Amount:

2% of Average Monthly Compensation for each year of service - Other.

2% of Average Monthly Compensation for the first 10 years of service plus 2 1/2% for years of service in excess of 10 - Police & Fire.

(10) Early Retirement Benefit

Eligibility:

Age 50 and 5 or more years Credited Service - all employees.

Type:

Life only.

Amount:

Actuarial equivalent of Normal Retirement Benefit based on service and compensation to Early Retirement Date.

(11) Deferred Vested Benefit

Eligibility:

Five or more years of Credited Service, withdrawal of employee contributions voids vested rights.

Type:

Life only or joint and survivor benefit (actuarially reduced).

Amount:

Monthly benefit begins on employee's Normal Retirement Date. Amount determined the same as Normal Retirement Benefit taking into account compensation and service prior to termination.

(12) Disability Benefit

Occupational Disability:

Eligibility:

No age or service requirements.

Type:

Monthly benefit payable until death, recovery, or normal retirement.

Amount:

40% of gross monthly compensation at date of disability. The benefit terminates at Normal Retirement Date with full Normal Retirement Benefit commencing at that point.

Non-Occupational Disability:

Eligibility:

Five or more years of Credited Service.

Type:

Monthly benefit payable until death, recovery, or normal retirement.

Amount:

Same as vested benefit except payments commence immediately.

(13) Death Benefit Before Retirement

Occupational:

No age or service requirements.

Benefit: 40% of gross monthly compensation at date of death or disability, if earlier. At participant's Normal Retirement Date, benefit converts to Normal Retirement benefit based on pay at date of disability or death and credited service, including period from date of disability or death to Normal Retirement Date.

Non-Occupational:

If no widow's benefit is payable, lump-sum death benefit of $1,000 plus $100 per each completed year of Credited Service and the participant's contributions with interest. Alternatively, an income benefit is available at death after five years of Credited Service based on 50% Joint and Survivor equivalent of accrued Normal Retirement Benefit.

(14) Death Benefits After Retirement

The employee's beneficiary receives a lump sum equal to the excess of his contribution account immediately prior to retirement over the sum of the pension payments previously received by the employee.

(15) Post-Retirement Pension Adjustment

Commissioner of Administration may recommend post-retirement increases on account of increasing cost of living up to 4% each year.

(16) Cost-of-Living Allowance

A retired employee who remains in Alaska is eligible for an additional allowance, equal to 10% of his basic retirement benefit, or $50 per month, whichever is greater.

(17) Optional Employee Savings Account

An employee can voluntarily contribute up to 5% of his compensation. This amount is recorded in a separate account and is payable:

(a) In the event of termination before retirement for any reason other than death, as a lump sum to the employee,

(b) In the event of termination on account of death, as a lump sum to the employee's beneficiary,

(c) On retirement, as a lump sum, life annuity on cash refund basis or installments over limited period.

1.2 MISCELLANEOUS INFORMATION

AS OF JANUARY 1

Active Members

		1977	1978	1979	1980
(1)	Number	14,804	16,623	17,807	18,341
(2)	Average Age	37.29	37.11	37.15	37.54
(3)	Average Service	4.48	4.48	4.65	4.88
(4)	Average Annual Salary	$18,232	$20,559	$21,753	$23,657

Retirees and Beneficiaries

(1)	Number	1,339	1,683	2,019	2,314
(2)	Average Age	63.38	62.82	62.94	63.03
(3)	Average Monthly Benefit				
	Base	$ 378	$ 427	$ 454	$ 471
	COLA	34	37	37	39
	PRPA	3	34	28	36
	TOTAL	416	498	519	546

1.1 BRIEF OUTLINE OF THE ALASKA TEACHERS' RETIREMENT SYSTEM

(1) Plan

The Teachers' Retirement System of Alaska is a joint contributory retirement system to provide benefits for teachers of the State.

(2) Effective Date

June 30, 1955, as amended through July 1980.

(3) Administration of Plan

The Commissioner of Administration is the administrator of the System; the Alaska Teachers' Retirement Board makes recommendations to the Commissioner of Administration; and the Commissioner of Revenue invests the funds.

(4) Membership

Membership in the Alaska Teachers' Retirement System is compulsory for all eligible certified teachers, certified school nurses, principals, supervisors, superintendents employed on a full-time or part-time basis in public schools in Alaska, the Commissioner of Education, supervisors with the Department of Education, and all full-time resident professional and administrative personnel of the University of Alaska.

(5) Credited Service

A year of membership service is defined to be the same as a school term which is currently a minimum of 172 days, and fractional service credit is on a daily rate basis. Credit is granted for all Alaskan public school service. Credit is granted for all accumulated, unused sick leave days.

(6) Contributions by Teachers

Effective July 1, 1970, each teacher shall contribute 7% of base salary accrued from July 1 to the following June 30.

(7) Voluntary Supplemental Contributions

If a teacher wishes to make his spouse or minor children eligible for a spouse's pension and/or survivor's pension allowance, he may elect to make supplemental contributions of an additional 1% of his base salary commencing not later than 90 days after entry in the System, marriage, or the birth or adoption of a child, or during any open enrollment period authorized by the Board.

(8) Arrearage Contributions

Up to 10 years of public or non-public teaching service, or service by a certificated person in a position requiring certification, in an accredited school not covered under the Teachers' Retirement System, or service in an institution of higher learning not under the control of the Board of Regents of the University of Alaska, is credited for retirement purposes.

After July 1, 1978, the full actuarial cost of providing benefits for this service will be born by the teacher. In addition, teaching services in Alaska B.I.A. schools may be used to increase total outside and Alaska B.I.A. service to 15 years before July 1, 1978. After this date, Alaska B.I.A. service is limited to 5 years.

A maximum of 5 years of military service after December 31, 1939 may be included as outside service. No fractional credit is

granted for outside service. Fractional credit is granted for Alaska B.I.A. service.

(9) Retroactive Contributions

If a teacher was not subject to the provisions of the Retirement Act and, at a later date became subject to them due to legislative changes of the eligibility requirements, the teacher may elect to receive credit for his creditable service prior to membership by submitting to the Retirement Fund an amount equal to the contributions that would have been made if the teacher had been a member of the System for any year's service after June 30, 1955, plus interest thereon. Retroactive contributions are not required for creditable membership service before June 30, 1955.

(10) Employers' and State's Contributions

The employer and the State each contribute an amount equal to one-half of the amount required in addition to member contributions to finance the benefits of the System.

(11) Rate of Interest

The amount deposited in a member account will be credited with interest at the rate established for a school year at the end of such school year. Effective July 1, 1973, the interest rate was increased to 4 1/2%.

(12) Withdrawal of Mandatory Contributions

If a member terminates teaching services in Alaska, mandatory contributions may be withdrawn. A withdrawing teacher will receive total mandatory contributions plus the interest credited.

(13) Reinstatement of Contributions

If Mandatory Contributions are withdrawn and a member subsequently resumes teaching in Alaska, the member will be indebted to the Teachers' Retirement Fund in the amount of the previous contributions to the System including any interest paid. The reinstatement indebtedness bears compound interest at the rate prescribed by regulation to the date of repayment or the date of retirement, whichever occurs first.

(14) Minimum Service Requirements

(1) 8 years of membership service, or

(2) 15 years of creditable service, the last five of which have been membership service; (after July 1, 1975 a new member needs 8 years of membership service); o·

(3) 5 years of membership service and 3 years of A aska B.I.A. service; or

(4) 25 years of creditable service, the last 5 of which are membership service; or

(5) 20 years of membership service; or

(6) 20 years of combined membership service and Alaska B.I.A. service, the last 5 of which are membership service.

(15) Normal Retirement Eligibility

A teacher may retire and receive full benefits

(1) Upon attaining age 55 and meeting the minimum service requirements; or

(2) At any age after 25 years of creditable service, the last 5 of which are membership service; or

(3) At any age after 20 years of membership service; or

(4) At any age after 20 years of combined membership service and Alaska B.I.A. service, the last 5 of which are membership service.

A retired teacher who has been receiving a disability retirement salary shall be eligible for a service retirement salary upon or after attaining age 55.

(16) Computation of Average Base Salary

A teacher's average base salary is determined by averaging the teacher's highest base salary which he received for any three out of the last 10 years of membership service.

(17) Normal Retirement Benefit

The normal retirement benefit is 2% of the teacher's Average Base Salary multiplied by the total number of years of creditable service.

(18) Early Retirement Benefit

A teacher is eligible for early retirement benefits if he has completed the minimum service requirements and has attained the age of 50. If the teacher does not apply for retirement benefits to start prior to his 55th birthday, he is eligible to receive the normal retirement benefit. If the retiring teacher elects to have payments of the benefit begin prior to his 55th birthday, the annual annuity is equal to his normal retirement benefit based on his average base salary and creditable service to his

retirement date, reduced by one-half of 1% per month for each month by which his age at retirement is less than 55 years.

(19) Deferred Vested Benefit

A teacher is eligible for a deferred vested benefit if he (1) terminates his membership after completing eight years of membership service, and (2) he does not withdraw his retirement contributions. Payment of this benefit is deferred until the first of the month following the teacher's 55th birthday or the first of the month in which the application for benefit is filed, whichever is later.

(20) Indebtedness Owing At Retirement

If on the date of making application for retirement, a teacher has not paid the full amount of his indebtedness including interest to the Retirement Fund, one of the following options may be chosen:

Option 1: The retirement benefit can be withheld until the amount withheld is equal to the outstanding indebtedness.

Option 2: A reduced annuity, completed by deducting 10% of the outstanding indebtedness at the time of retirement from the annual retirement benefit, can be paid to the teacher.

(21) Re-employment of a Retired Teacher

If a retired teacher is re-employed as a full-time teacher, his retirement salary will be suspended during the period of employment.

Retirement Contributions are made at the option of such teacher and an additional retirement benefit may be accrued.

(22) Disability Retirement Benefits

A disability retirement annuity may be paid if a teacher has become permanently disabled before 55 and has at least five years of membership service.

The benefit will be equal to 50% of the disabled teacher's base salary immediately prior to becoming disabled. This benefit will be increased by 10% of the teacher's base salary for each minor child up to a maximum of four minor children until the child ceases to be a minor.

When the disabled teacher attains age 55, the disability salary will automatically terminate. A normal retirement salary will be computed as if the teacher had been in membership service during the period of disability, and a service retirement will be granted.

(23) Cost-of-Living Allowance

A retired teacher whose permanent residence is in Alaska subsequent to retirement and/or whose absence is of a temporary nature, not to exceed 60 days, for travel or vacation purposes is entitled to receive a cost-of-living allowance of 10% of his retirement benefit in addition to his retirement benefit.

(24) Post-Retirement Adjustment

This adjustment is promulgated by regulation and payable to a retired teacher when the administrator determines that the cost of living has increased and the financial condition of the fund

permits payment of the adjustment. The amount of increase shall not exceed 4% compounded for each year on retirement.

(25) Exemption from Taxation and Process

Teachers' retirement benefits are exempt from Alaska state and municipal taxes, are not subject to execution, attachment, garnishment or other process, but must be reported to the Internal Revenue Service for federal tax purposes.

(26) Lump Sum Death Benefit

Upon death of a member who has made no supplemental contributions or who made supplemental contributions for less than one year, a lump-sum benefit shall be paid to the designated beneficiary. The lump-sum benefit is the teacher's accumulated mandatory contributions with interest thereon. If the teacher is in active service at the time of death, an additional death benefit equal to $1,000 plus $100 for each year of the first 20 years of completed service plus $500 if the teacher is survived by one or more minor children is also payable.

If the teacher had received a retirement benefit prior to his death, payment shall be his accumulated contributions, plus interest, minus all benefits paid.

If a member failed to designate a beneficiary, or if no designated beneficiary survives the member, payment shall be made:

(1) to his surviving spouse or if there is no surviving spouse,

(2) to his surviving children in equal parts, or if there are none surviving,

(3) to his surviving parents in equal parts, or, if there are none surviving,

(4) to his estate.

(27) Survivor's Allowance

If a teacher dies while in service or while receiving a service or disability retirement benefit, is survived by one or more minor children and has made supplemental contributions for at least one year before his death, his surviving spouse is entitled to the survivor's allowance. The amount of the benefit is 35% of the teacher's base salary immediately prior to his death or becoming disabled for his spouse and 10% for each minor child up to a maximum of four.

(28) Spouse's Pension

If a teacher has made supplemental contributions for at least one year and dies while in membership service, or while receiving a disability benefit, or if a teacher has made supplemental contributions for at least 5 years and dies while on retirement or in deferred retirement status, the surviving spouse is entitled to receive the spouse's pension. The amount of the benefit is 50% of the service retirement salary that the deceased teacher was receiving or would have received. The spouse's pension commences the month following the member's death. The payment ceases when the spouse dies or remarries.

1.2 MISCELLANEOUS INFORMATION

AS OF JUNE 30

Active Members

		1976	1977	1978	1979	1980
(1)	Number of Active Members	6,209	7,024	7,255	7,170	7,288
(2)	Average Age	37.42	37.20	37.33	37.69	38.10
(3)	Average Service to Date	8.95	8.70	8.84	8.97	9.09
(4)	Average Annual Salary	$21,267	$22,887	$25,193	$26,807	$29,685

Retirees and Beneficiaries

(1)	Number of Retirees and Beneficiaries	793	891	1,072	1,136	1,245
(2)	Average Age	63.55	63.39	62.71	62.95	63.00
(3)	Average Monthly Benefit Base	$ 720	$ 749	$ 787	$ 807	$ 849
	C.O.L.A.	$ 40	$ 42	$ 46	$ 46	$ 50
	P.R.P.A.	$ 20	$ 70	$ 141	$ 129	$ 145
	Total	$ 780	$ 861	$ 974	$ 982	$1,044

1.3 RETIREMENT STATISTICS

	Retirements in Year Ending June 30					
	1975	1976	1977	1978	1979	1980
Normal:						
Number	90	106	110	77	108	85
Average Age	60.13	60.61	59.24	55.92	57.06	59.98
Average Benefit	$794.71	$917.85	$931.55	$1,072.87	$1,110.18	$1,263.17
Early:						
Number	6	40	54	20	31	68
Average Age	51.64	51.87	51.71	50.55	50.48	51.48
Average Benefit	$943.82	$987.35	$937.83	$1,171.76	$1,268.30	$1,238.22
Disability:						
Number	5	10	9	8	9	3
Average Age	49.64	46.33	47.41	46.56	48.03	48.76
Average Benefit	$1,006.97	$1,012.53	$1,674.55	$1,289.71	$1,546.41	$1,798.73
Survivor:						
Number	3	1	5	5	12	8
Average Age	57.49	35.71	55.59	48.45	49.85	58.25
Average Benefit	$625.89	$1,172.44	$577.78	$1,110.36	$549.63	$601.75
Total:						
Number	104	157	178	110	160	164
Average Age	59.06	57.31	56.26	53.92	54.74	56.16
Average Benefit	$811.54	$943.21	$961.09	$1,108.32	$1,123.32	$1,230.36

SYNOPSIS OF SENATE BILL NO. 60

SECTIONS 1 and 3

Upon determination by either the administrator of the Teachers Retirement System or the Public Employees Retirement System, that there has been an increase in the cost-of-living, based upon the Anchorage CPI, then the administrators shall accordingly increase retirement benefit payments.

SECTIONS 2 and 4

The TRS and PERS retirement benefit increase will be the same as the Anchorage CPI percentage increase.

Background Information

Under the current Alaska Statute, when the Commissioner of Administration determines that the cost-of-living has increased and he also determines that there adequate money in the retirement fund - then he may recommend an increase in the pension payments to the Retirement Board. That increase, if recommended, cannot exceed 4 percent per year and would be effective on the first of January.

Obviously, the methodology to obtain cost-of-living retirement benefit increases for public employees is discretionary and ill-defined. The proposed legislation would tie retirement benefit increases to the Anchorage

CPI increases. These increases would be mandatory and predictable, rather than permissive and desultory.

The following information clearly underscores the need for mandatory increases:

The Commissioner of Administration recommended these increases for the years 1969-1977.

1969 - 1½ percent

1970 - 1½ percent

1971 - 1½ percent

1972 - none

1973 - 2½ percent

1974 - 3 percent

1975 - none

1976 - none

1977 - none

Total increase from 1969 - 1977 was only 10 percent.

In the 1978 election year, the Commissioner retroactively granted a 4 percent increase, for each year since 1969. This was offset by any previously granted pension adjustment. 4 percent adjustments were also granted in 1979 and 1980. Although it would appear benevolent and that the forgotten years were remembered and recompensed - the facts belie the inference because:

The total increase in benefits over this 12-year period was 46 percent. The total increase in the Anchorage CPI over this 12-year period was 131.20 percent.

applied for disability retirement salary shall receive from the retirement fund, during each year subsequent to the date of application and certification by the administrator under § 130 of this chapter, a disability retirement salary payable on the first day of each month, beginning the month following the disability.

(b) The payment made on the first day of the month in which the disabled teacher recovers from his disability, dies or attains age 55 constitutes the last payment.

(c) The amount of the disability retirement shall be equal to 50 per cent of the teacher's base salary immediately before his becoming disabled. The disability retirement salary shall be increased by 10 per cent of the teacher's base salary at the date of disability for each minor child, up to a maximum of four minor children, until the first day of the month in which the child ceases to be a minor child or the disability retirement salary terminates, whichever occurs first. (§ 15 ch 145 SLA 1955; am § 5 ch 142 SLA 1957; am § 2 ch 87 SLA 1965; am § 9 ch 151 SLA 1966; am §§ 16, 17 ch 66 SLA 1973; am § 10 ch 173 SLA 1975)

Revisor's note. — See Revisor's note to AS 14.25.120.

Effect of amendments. — The 1973 amendment substituted "during each year" for "for each school year" in subsection (a), inserted "and certification by the administrator under § 130 of this chapter" in that subsection, substituted "the teacher's" for "his" in the first sentence of subsection (c), and inserted "of the teacher's base salary at the date of disability" in the second sentence of that subsection.

The 1975 amendment, effective June 30, 1975, substituted "age 55" for "age 60" in subsection (b).

Sec. 14.25.142. Cost of living allowance. (a) A teacher who resides in the state after his retirement shall receive a cost of living allowance in addition to his retirement salary. The amount of this allowance is determined by multiplying the teacher's retirement salary by a percentage determined by the administrator not to exceed 10 per cent of the retirement salary. The administrator shall implement this section by regulations.

(b) Repealed by § 18 ch 66 SLA 1973. (§ 10 ch 151 SLA 1966; am § 18 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment repealed subsection (b).

(a)-amended

Sec. 14.25.143. Post retirement pension adjustment. (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase all service retirement and survivor's benefits salaries to reflect this cost of living increase.

repealed & reenacted

(b) The amount of the increase shall be not more than four per cent compounded for each year of retirement. Increases accrue from the first

of July next following the effective date of retirement and shall be paid beginning the first of July of each year.

(c) The administrator is authorized to implement this section by regulation. (§ 11 ch 151 SLA 1966; am § 5 ch 86 SLA 1971; am § 19 ch 66 SLA 1973; am § 3 ch 99 SLA 1974)

Effect of amendments. — The 1971 amendment inserted "compounded" in the first sentence of subsection (b).

The 1973 amendment substituted "all service retirement and survivor's benefits salaries" for "the pension payments" in subsection (a).

The 1974 amendment substituted "not more than four per cent" for "equal to not more than one and one-half per cent" in the first sentence of subsection (b).

Sec. 14.25.145. Interest on individual accounts. Interest shall be credited to each teacher's account at the end of each school year at the rate prescribed by regulation for that year. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 138 SLA 1970; am § 20 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment deleted the former first sentence and substituted "Interest" for "Thereafter, interest" and "each" for "a" in the present first sentence.

Editor's note. — Section 8, ch. 138, SLA 1970, effective July 1, 1970, provides: "Sec. 7 of this Act is retrospective in nature."

Sec. 14.25.150. Payment on withdrawal from system. A teacher leaving membership service is entitled to a refund of his contributions exclusive of his supplemental contributions to the retirement fund as follows:

(1) A teacher leaving membership service shall receive his total accumulated contributions plus interest credited to his individual contribution account, less any amounts owing to the retirement fund because of previous withdrawals.

(2) Repealed by § 22 ch 66 SLA 1973.

(3) If a teacher who has received a refund of contributions is re-employed in membership service, he is, upon his re-employment, indebted to the retirement fund in the amount of the refund, including interest paid him. This indebtedness to the retirement fund shall bear compound interest at the rate prescribed by regulation beginning July 1 following the date of re-employment to the date of repayment or the date of retirement of the teacher, whichever occurs first.

(4) A teacher who has received a refund under the Retirement Act of 1945 is not entitled to any further refunds of the nonrevertible portion of his contribution.

(5) A teacher who has forfeited his claim to any refund under the provisions of the Retirement Act of 1945 because of failure to file a timely application is not entitled to a refund of any portion of those contributions made under that act.

Revisor's note. — Section 39.35.485(a) provides that after January 1, 1981 each employee eligible for a benefit under AS 39.35.370 is entitled to at least $25 a month. Consequently, this section apparently has no legal effect.

Sec. 39.35.475. Post-retirement pension adjustment. (a) When the administrator determines that the cost of living has increased and the financial condition of the retirement fund permits, he shall increase benefit payments to persons receiving benefits under this system.

(b) The amount of the increase in benefit payments may not exceed the greater of

(1) the increase in the cost of living since the date of retirement; or

(2) four percent of the retirement benefit compounded for each year of retirement.

(c) If at the time of first receiving a retirement benefit a member was receiving a disability benefit under this system, the administrator shall include the time during which the member received the disability benefit in determining the number of years of retirement under this section.

(d) An increase in benefit payments under this section is effective July 1 of the year for which the increase is granted.

(e) The administrator shall implement this section by regulation. (§ 9 ch 235 SLA 1968; am § 14 ch 159 SLA 1972; am § 34 ch 146 SLA 1980)

Effect of amendment. — The 1980 amendment rewrote the section.

Editor's note. — Section 49, ch 146, SLA 1980 provides: "The retirement benefit payable to a member of the public employees' retirement system who is receiving a normal retirement benefit under AS 39.35.370, July 1, 1980, and who at the time of his retirement was receiving a disability pension under the public employees' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 39.35.475 during the period that the member was receiving a disability benefit."

Sec. 39.35.480. Cost-of-living allowance. (a) While residing in the state, a person receiving a benefit under this chapter is entitled to receive a monthly cost-of-living allowance in addition to his basic benefit. The amount of this allowance shall be $50 or 10 per cent of the basic benefit, whichever is greater.

(b) A person receiving a cost-of-living allowance under this section shall notify the administrator when he expects to be absent from the state for a continuous period that exceeds 90 days. After that notification, the person is no longer entitled to receive the monthly cost-of-living allowance, except that a person may be absent from the state for not more than six months without loss of the cost-of-living allowance if the absence is the result of illness and required by order of a licensed physician. Upon his return to the state, and upon notification to the administrator, the person is again entitled to receive

I. REQUEST

Bill/Resolution No. Senate Bill No. 60

Title An Act Requiring Annual Adjustments Under The TRS And PERS

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

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

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS		89,340.1	98,274.2	108,101.6	118,911.7	130,802.9
	TOTAL		89,340.1	98,274.2	108,101.6	118,911.7	130,802.9

FUNDING (Thousands of Dollars)

GENERAL FUND		73,169.6	80,486.6	88,535.3	97,388.7	107,127.7
FEDERAL FUNDS		4,109.6	4,520.6	4,972.7	5,469.9	6,016.9
VETERAN'S FUND		178.7	196.5	216.2	237.8	261.6
FISH & GAME FUND		536.0	589.6	648.6	713.5	784.8
HIGHWAY FUND		1,161.4	1,277.6	1,405.3	1,545.9	1,700.4
AIRPORT FUND		2,590.9	2,850.0	3,134.9	3,448.4	3,793.3
CAPITAL FUND		7,593.9	8,353.3	9,188.6	10,107.5	11,118.2
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Estimate FY 82 covered State PERS payroll to be $296,614,000.
2. Increase in State contribution rate would be 30.12% of covered State PERS payroll.
3. Estimate future State PERS payroll to increase 10% annually.
4. Estimate long-term inflation rate of 7.5%.
5. The cost to political subdivision is estimated to be $76.7 million in FY 82 increasing at 10% each year thereafter.

Paul B. Arnoldt

IV. DATE 2/23/81 PREPARED BY Paul B. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

Office of the Governor (Keith Specking)

Bill/Resolution No. Senate Bill No. 60
Title An Act Requiring Annual Adjustments Under the TRS and PERS
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement & Benefits
Program Category Affected Labor Services and Elementary & Secondary Education
EPU, Program, or Subprogram(s) Affected 02-96-8-01-01-02 (TRS) 02-11-8-02-01-00 (TRS MATCH)
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING		63,899.3	70,289.2	77,318.1	85,049.9	93,554.9
100	BENEFITS		11,553.0	12,708.3	13,979.1	15,377.0	16,914.7
	TOTAL		75,452.3	82,997.5	91,297.2	100,426.9	110,469.6

FUNDING (Thousands of Dollars)

GENERAL FUND		75,452.3	82,997.5	91,297.2	100,426.9	110,469.6
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS						
TRS						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

1. Estimate long-term inflation rate of 7.5%.

2. An automatic PRPA with no ceiling will increase the contribution rate by 48.82% of covered TRS payroll (the TRS contribution rate is split 50/50 between the State matching contribution and the district contribution).

3. Estimate FY 82 TRS covered payroll @ $261,775,000.

4. Estimate the TRS covered payroll will increase at 10% annually.

Paul B. Arnoldt

IV. DATE 2/23/81 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

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

ATTACHMENT

Bill/Resolution No. SB 60

ASSUMPTIONS:

1. Estimated FY 82 Payroll (Total System) = $261,775,000
2. State Contribution Rate to Fund Bill = 24.41%
3. State TRS Matching Rate to Fund Bill = 24.41%
4. School District Rate to Fund Bill = 24.41%

COST ANALYSIS:

	Employer	Payroll		Rate	Cost	Appropriation
1.	Department of Education	$ 4,712,000	X	24.41%	$ 1,150.2	To Their Budget
2.	University of Alaska	$ 42,617,000	X	24.41%	$10,402.8	To Their Budget
					$11,553.0	
3.	State TRS Matching	$261,775,000	X	24.41%	$63,899.3	To TRS Match
4.	State TRS Regular Budget:					
	Personal Services				$ -0-	To Personal
	Travel				$ -0-	To Travel
	Contractual				$ -0-	To Contractual
	Commodities				$ -0-	To Commodities
	Equipment				$ -0-	To Equipment
	COST TO STATE IN FY 82				$75,452.3	
5.	All School Districts	$214,446,000	X	24.41%	$ 52,346.3	
	TOTAL COST IN FY 82				$127,798.6	

REMARKS:

SB

61

Synopsis Senate Bill No. 61

Section 1

This would increase the retirement benefit calculation formula from 2 percent to 2.5 percent in the Peace Officers Retirement system, for the first ten years of service. For service over ten years, it would increase from 2.5 percent to 3 percent. In the Public Employee Retirement System, the retirement benefit calculation formula would be increased from 2 percent to 2.5 percent.

Section 2

The retirement benefit formula is:

Percentage X years of service X average final salary for highest 3 years = retirement benefit.

This applies the increase percentages to the retirement benefit calculation formula.

Background Material

Cost-of-living in Alaska is the highest in the nation, yet some states, such as Colorado, Louisiana, Massachusetts and Nevada are using the 2.5 percent retirement benefit calculation formula in the public employment retirement systems. The 1/2 percent increase, will, of course, only partially negate the cost-of-living increase. However, it could prove to be an incentive for employees to view their

jobs as long-term careers and thus decrease the rapid employee turnover that has historically been a state administration problem. In addition, those retired employees who are forced to leave the state for economic reasons, could remain in Alaska after retirement. This would be in keeping with the state's consistent concern and provision for its Alaskan senior citizens.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 3? percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative
Services

Paul B. Arnoldt, Director
Division of Retirement and
Benefits

Sandra Withers, Director
Division of Labor Relations

Alaska State Legislature

SENATOR
ROBERT H. ZIEGLER, SR.
307 BAWDEN STREET
KETCHIKAN, ALASKA 99901

POUCH V
JUNEAU, ALASKA 99811

Senate

VICE CHAIRMAN
ADMINISTRATIVE REGULATION REVIEW

MEMBER
SENATE RULES COMMITTEE
SENATE COMMERCE AND LABOR COMMITTEE
SENATE COMMUNITY AND
REGIONAL AFFAIRS COMMITTEE
STEERING COUNCIL FOR ALASKA LANDS

WESTERN STATES LEGISLATIVE
FORESTRY TASK FORCE
COUNCIL FOR STATE GOVERNMENTS
COMMITTEE ON SUGGESTED STATE LEGISLATION

March 7, 1981

Art and Eileen Thompson
Box 7135
Ketchikan, Alaska 99901

Dear Art and Eileen:

Thanks for your letter of March 1.

As you know, I've always supported the "old timers" of our state, especially now that "I am one". SB 60 and SB 61 are now residing in Senator Mulcahy's Labor and Commerce Committee. I spoke with the Senator and he indicated that he would probably move the bills after he receives all the necessary fiscal impact materials, probably around the end of this month.

I too hope HCR 1 moves. It has been in House Transportation Committee for a month and should begin its journey soon.

Good to have heard from you.

Regards,

RHZ

Robert H. Ziegler, Sr.

RHZ:lk

bcc: Sen Mulcahy

Senate Bill No's 61 & 62

24 Feb 81

Dear Mr. Mulcahy,

I am writing this letter to confirm my feelings in behalf of the state employees and its Citizens on Senate Bill No's 61 and 62.

I think it is only fair to the people of Alaska that this legislation is passed in favor of. It is a fair bill; it represents good work incentive, cooperation, and needed benefits for the states retirement system. This bill would indeed pass on to the state and its people added benefits not seen now.

Sincerely,

David C. Waite

David C. Waite

cc Don Gilman

1.1 BRIEF OUTLINE OF THE ALASKA PUBLIC EMPLOYEES' RETIREMENT SYSTEM

(1) Effective Date

January 1, 1961, with amendments through July 1980.

(2) Administration of Plan

The Commissioner of Administration is responsible for administration of the System, Public Employees' Retirement Board adopts rules and regulations to carry out provisions of the Act, and Commissioner of Revenue invests the Fund. The Attorney General is the attorney for the System and represents it in legal proceedings.

(3) Employers Included

State of Alaska and any political subdivisions and public or quasi-public organizations thereof. As of January 1, 1980, there were 83 participating employer groups in addition to the State for which separate contribution rates are determined.

(4) Employees Included

All permanent full-time or part-time employees of the State and participating political subdivisions, exclusive of those covered by the Alaska Teachers' Retirement System, the Alaska Judges' System, or any employee on whose behalf the State is making contributions to another Retirement System. Elected officials may elect to participate at their option.

(5) Service Considered

Future:

The later of hire, 1/1/61, or date of employers' participation in the System, to date of termination, death, or retirement. Up to 5 years of military service may be recognized if claimed, verified, and appropriate employee contribution paid. Permanent part-time employees receive service credit on a pro-rata basis.

Past:

Service credit for all service with State and Territory prior to January 1, 1961, if the employee completed three years of service after January 1, 1961. Elected official has past service credit only if he pays contributions for all of his service after January 1, 1961. Service with political subdivision prior to its participation in the System is included at the option of the political subdivision.

Break in Future Service:

Any termination. But if employee returns and makes contribution equal to refund paid plus interest, the service before the break is reinstated.

(6) Average Monthly Compensation

Total compensation during three consecutive calendar years of credited service which yield the highest average monthly compensation (total compensation during period divided by number of months included).

(7) Employer Contributions

Separate contribution rate for each employer equal to the sum of:

(1) Consolidated Rate

A uniform rate for all participating employers sufficient to amortize all future service liabilities (less value of employee contributions) over the future working lifetimes of the covered group.

(2) Past Service Rate

A rate determined separately for each employer sufficient to amortize such employer's unfunded past service liabilities over 25 years.

(8) Employee Contributions

Mandatory Employee Contributions: Police & Fire - 5%

Other - 4 1/4%

Interest Credited: 4 1/2% compounded semi-annually on June 30 and December 31.

Refund at Termination (no vesting): Return of voluntary and mandatory contributions with interest.

Refund at Death: If no widow's pension payable, return of voluntary and mandatory contributions with interest.

(9) Normal Retirement Benefit

Eligibility: The first of the month following the earlier of: age 55 with 5 or more years of Credited Service; or 20 years Credited Service - Police & Fire, or 30 years Credited Service - Other.

Type:

Life only with optional joint and survivor benefit (actuarially reduced).

Amount:

2% of Average Monthly Compensation for each year of service - Other.

2% of Average Monthly Compensation for the first 10 years of service plus 2 1/2% for years of service in excess of 10 - Police & Fire.

(10) Early Retirement Benefit

Eligibility:

Age 50 and 5 or more years Credited Service - all employees.

Type:

Life only.

Amount:

Actuarial equivalent of Normal Retirement Benefit based on service and compensation to Early Retirement Date.

(11) Deferred Vested Benefit

Eligibility:

Five or more years of Credited Service, withdrawal of employee contributions voids vested rights.

Type:

Life only or joint and survivor benefit (actuarially reduced).

Amount:

Monthly benefit begins on employee's Normal Retirement Date. Amount determined the same as Normal Retirement Benefit taking into account compensation and service prior to termination.

(12) Disability Benefit

Occupational Disability:

Eligibility:

No age or service requirements.

Type:

Monthly benefit payable until death, recovery, or normal retirement.

Amount:

40% of gross monthly compensation at date of disability. The benefit terminates at Normal Retirement Date with full Normal Retirement Benefit commencing at that point.

Non-Occupational Disability:

Eligibility:

Five or more years of Credited Service.

Type:

Monthly benefit payable until death recovery, or normal retirement.

Amount:

Same as vested benefit except payments commence immediately.

(13) Death Benefit Before Retirement

Occupational:

No age or service requirements.

Benefit: 40% of gross monthly compensation at date of death or disability, if earlier. At participant's Normal Retirement Date, benefit converts to Normal Retirement benefit based on pay at date of disability or death and credited service, including period from date of disability or death to Normal Retirement Date.

Non-Occupational:

If no widow's benefit is payable, lump-sum death benefit of $1,000 plus $100 per each completed year of Credited Service and the participant's contributions with interest. Alternatively, an income benefit is available at death after five years of Credited Service based on 50% Joint and Survivor equivalent of accrued Normal Retirement Benefit.

(14) Death Benefits After Retirement

The employee's beneficiary receives a lump sum equal to the excess of his contribution account immediately prior to retirement over the sum of the pension payments previously received by the employee.

(15) Post-Retirement Pension Adjustment

Commissioner of Administration may recommend post-retirement increases on account of increasing cost of living up to 4% each year.

(16) Cost-of-Living Allowance

A retired employee who remains in Alaska is eligible for an additional allowance, equal to 10% of his basic retirement benefit, or $50 per month, whichever is greater.

(17) Optional Employee Savings Account

An employee can voluntarily contribute up to 5% of his compensation. This amount is recorded in a separate account and is payable:

(a) In the event of termination before retirement for any reason other than death, as a lump sum to the employee,

(b) In the event of termination on account of death, as a lump sum to the employee's beneficiary,

(c) On retirement, as a lump sum, life annuity on cash refund basis or installments over limited period.

1.2 MISCELLANEOUS INFORMATION

AS OF JANUARY 1

Active Members

		1977	1978	1979	1980
(1)	Number	14,804	16,623	17,807	18,341
(2)	Average Age	37.29	37.11	37.15	37.54
(3)	Average Service	4.48	4.48	4.65	4.88
(4)	Average Annual Salary	$18,232	$20,559	$21,753	$23,657

Retirees and Beneficiaries

(1)	Number	1,339	1,683	2,019	2,314
(2)	Average Age	63.38	62.82	62.94	63.03
(3)	Average Monthly Benefit				
	Base	$ 378	$ 427	$ 454	$ 471
	COLA	34	37	37	39
	PRPA	3	34	28	36
	TOTAL	416	498	519	546

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 61 by Ray

SEC. 1: Increase in retirement benefit calculation for the Peace Office Retirement System. Increase from 2 to 2½ percent for first 10 years service; Increase from 2½ to 3 percent for service over 10 years. In the PERS, benefit calculation would increase from 2 to 2½ percent.

SEC. 2: Retirement benefit formula: Percentage X years of service X average final salary for highest 3 years= benefit amount.

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SEC. 2: Retirement benefit formula: Percentage X years of service X average final salary for highest 3 years= benefit amount.

RESEARCH: SB 61 would require 3 additional staff for 6 months to re-calculate benefits for 2,650 persons who are recieving benefits under PERS.

The cost to the State will be $15.8 million (FY82), and it will cost our political sub-divisions $13.5 million. Dept of Administration projects the cost to increase by at least 10% per year thereafter.

FISCAL IMPACTS

FY 82: $15,814,800.00
FY 83: $17,357,900.00
FY 84: $19,093,600.00
FY85: $21,003,000.00
FY 86: $23,103,300.00

FISCAL IMPACTS ON POLITICAL SUB-DIVISIONS:

FY 82: $13,500,000.00
FY 83: $14,850,000.00
FY 84: $15,335,000.00
FY 85: $15,868,500.00
FY 86: $17,445,000.00

RETIREMENT BENEFIT CALCULATION FORMULA:

(%)X (years of service)X(Avg. final salary-3highest years)= Benefit Amount

PROPOSED INCREASES:

Peace Officer Retirement System:

First 10 Years Service: Presently 2%; Increase to 2½%

Service over 10 Years: Presently 2½%; Increase to 3%

Public Employees Retirement System:

Presently 2%; Increase to 2½%

Additional Fiscal Impact:

SB 61 Requires 3 additional Staff for 6 months to recalculate retirement benefits for the 2,650 people recieving benefits under PERS. Each of the 3 benefit technicians would be paid $11,648.00 for their 6 month contract. Total of Labor $34,941.00.

COMMENTS FROM THE DEPT OF ADMIN:

"We project this cost to increase by at least 10% for each year therafter. We question the need to increase benefits that are already the highest in the Nation, and the disproportionate distribution of Public Funds."

The 10% annual increase addressed in the Fiscal Note relates to assumptions of increase for Union Negotiations, merit increases (annually), and promotional increases.

Alaska State Legislature

Senate

Committee on Labor & Commerce

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State Capitol
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FY 84: $19,093,600.00
FY85: $21,003,000.00
FY 86: $23,103,300.00

... are based on retroactive credited service under this subsection. ... ch 113 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA ... am § 4 ch 265 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch ... SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA ... am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ... SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

... note. — Subsection (a) of this ... apparently has no effect after ... January 1, 1980, since it applies only to ... employed before that date.

... (g) of this section apparently ... no effect after July 1, 1980, since ... service under this subsection ... have been claimed by that date.

Effect of amendments. — The 1976 amendment, among other things, added ... language beginning "and heavy ... operators" to the end of that ... and added subsection (e).

The 1977 amendment, among other ..., substituted "credited service for ... before January 1, 1961" for ... credit for prior service" and "this ..." for "this system for the period of ... service credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, ... subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

Editor's note. — Section 15, ch. 82 SLA 1979 provides that AS 39.35.360(g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section

- [Repealed]
- Conditional service retirement benefits
- [Repealed]
- Voluntary contribution benefit
- Nonoccupational disability pensions
- Occupational disability pensions
- Nonoccupational death benefits
- Occupational death benefit
- Death after occupational disability
- Joint and survivor option
- Spouse survivor benefits under Public Employees Retirement Act of 1949
- Level income option
- Other forms of payment
- Post-retirement pension adjustment

Section

- Cost-of-living allowance
- Minimum benefit
- Designation of beneficiary
- Time limit for application
- Safeguard of employee funds held by the system
- Voluntary waiver of benefits
- Adjustments
- Waiver of adjustments
- Limitation on use of credited service as peace officer or fireman
- Limit on pension
- Medical benefits
- Minimum benefit
- [Repealed]
- Tax exemption
- Effect of amendments

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

amended (c) The monthly amount of a retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. An actuarial adjustment must be made for an early retirement benefit.

(d) The monthly amount of a retirement benefit for a deferred vested member shall be determined in accordance with (c) of this section as it was in effect on the date of the employee's termination of employment.

(e) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) The member meets the eligibility requirements of this section; (2) he terminates his employment; and (3) he applies for retirement. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which a benefit is payable under this section.

(f) A member who is vested in the system as a peace officer or fireman at the time he incurs a permanent disability of at least 33-1/3 per cent under workers' compensation and who (1) undergoes retraining because of the disability; and (2) is subsequently employed with the state or other employer in a position other than peace officer or fireman, is eligible for a normal retirement benefit as a peace officer or fireman under (a) and (c) of this section when he has completed 20 years of credited service. (§ 18 ch 143 SLA 1960; am § 2 ch 102 SLA 1963; am § 7 ch 155 SLA 1966; am § 5 ch 235 SLA 1968; am § 6 ch 109 SLA 1970; am §§ 6, 7 ch 159 SLA 1972; am § 15 ch 47 SLA 1974; am § 34 ch 128 SLA 1977; am § 33 ch 146 SLA 1980)

Effect of amendments. — The 1977 amendment rewrote this section.

The 1980 amendment added subsection (f).

Editor's note. — Section 49, ch. 146, SLA 1980, provides: "The retirement benefit payable to a member of the public employees' retirement system who is receiving a normal retirement benefit under AS 39.35.370 on the effective date of this Act, and who at the time of his retirement was receiving a disability pension under the public employees' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 39.35.475 during the period that the member was receiving a disability benefit."

Legislative history report. — For report on ch. 159, SLA 1972 (FCCS HCS CSSB 264), see 1972 House Journal, p. 992.

Sec. 39.35.380. Early retirement benefits.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 19, ch. 143, SLA 1960; am. § 7, ch. 109, SLA 1970; am. § 8, ch. 159, SLA 1972; am. §§ 11, 12, ch. 205, SLA 1975.

Sec. 39.35.385. Conditiona
employee is eligible for a norm
least two years of credited serv
normal retirement salary und
(2) An employee is eligible f
with at least two years of cr
eligible for an early retiremen
system (AS 14.25
(c) Credited service for whi
creditable under this section
been repaid. For purposes of th
does not have to be reemploy
refunded contributions. Comp
calculation must be added to th
date of the refund to the date
(d) The monthly amount of
officer or fireman is two per ce
times the years of service up t
per cent of the average mon
service over 10 years. For all o
average monthly compensatio
An actuarial adjustment of th
retirement benefit.
(e) Benefits payable under t
the month (1) in which the me
of this section, (2) following th
application for retirement, and
If payment is delayed, a retroa
period of deferment. The last p
which the member dies or is n
section.
(f) An employee is eligible fo
or an early retirement benefit
credited service as a temporary
of five legislative sessions. (§
1979; am § 37 ch 13 SLA 19

Effect of amendments. — The
amendment added subsection (f).
The 1980 amendment added the pro
second and third sentences in subs

Editor's note. — Section 15, ch.

Sec. 39.35.390. Deferred r

Repealed by § 55 ch 128 SL

benefit for a peace officer or
hly compensation times the
rs, plus two and one-half per
n times the years of service
two per cent of the average
of service. An actuarial
irement benefit.
benefit for a deferred vested
with (c) of this section as it
termination of employment.
accrue from the first day of
g requirements are met: (1)
ments of this section; (2) he
applies for retirement. The
onth. If payment is delayed,
ver the period of deferment.
month in which a benefit is

ystem as a peace officer or
t disability of at least 33⅓
n and who (1) undergoes
(2) is subsequently employed
ition other than peace officer
ment benefit as a peace officer
n when he has completed 20
LA 1960; am § 2 ch 102 SLA
235 SLA 1968; am § 6 ch 109
am § 15 ch 47 SLA 1974; am
SLA 1980)

n under the public employee
ment system, shall be increased by a
ntage equal to the percentage of a
tirement pension adjustment
le under AS 39.35.475 during the
d that the member was receiving
dity benefit."
gislative history report. — For
t on ch. 159, SLA 1972, FCOS HC
p. 264, see 1972 House Journal

nefits.

1972, am. §§ 11, 12, ch. 2[illegible] SLA

Sec. 39.35.385. Conditional service retirement benefits. (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a normal retirement salary under the teachers' retirement system (AS 14.25).

(b) An employee is eligible for an early retirement benefit at age 50 with at least two years of credited service if the employee also is eligible for an early retirement salary under the teachers' retirement system (AS 14.25).

(c) Credited service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this system in order to pay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

amended (d) The monthly amount of a normal retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the number of years of service. An actuarial adjustment of this amount must be made for an early retirement benefit.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. When payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

(f) An employee is eligible for a normal retirement benefit at age 55 or an early retirement benefit at age 50 if he has at least 60 days of credited service as a temporary employee of the legislature during each of five legislative sessions. (§ 3 ch 174 SLA 1978; am § 11 ch 82 SLA 1979; am § 37 ch 13 SLA 1980)

Amendments. — The 1979 amendment added subsection (f).

The 1980 amendment added the present second and third sentences in subsection (d).

Effective date. — Section 15, ch. 82, SLA 1979 provides that AS 39.35.385 (f) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employees' retirement system on July 1, 1979.

Sec. 39.35.390. Deferred retirement benefit.

Repealed by § 55 ch 128 SLA 1977.

Public Records and Recorders
Public Resources
Land and Water Conservation
Notaries and Commissioners
Public Offices

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 61

Title An Act Adjusting Retirement Benefits For Public Employees

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Administration - Division of Retirement and Benefits

Program Category Affected Labor Services

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

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		34.3				
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES		0.6				
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	STATE TRS MATCHING						
100	BENEFITS		15,779.9	17,357.9	19,093.6	21,003.0	23,103.3
	TOTAL	-0-	15,814.8	17,357.9	19,093.6	21,003.0	23,103.3

FUNDING (Thousands of Dollars)

GENERAL FUND		12,923.7	14,216.1	15,637.6	17,201.5	18,921.6
FEDERAL FUNDS		725.9	798.5	878.3	966.1	1,062.8
VETERAN'S FUND		31.6	34.7	38.2	42.0	46.2
FISH & GAME FUND		94.7	104.1	114.6	126.0	138.6
HIGHWAY FUND		205.1	225.7	248.2	273.0	300.3
AIRPORT FUND		457.6	503.4	553.7	609.1	670.0
CAPITAL FUND		1,341.3	1,475.4	1,623.0	1,785.3	1,963.8
PERS		34.9				
TRS						

POSITIONS 3 employees for 6 months

FULL TIME						
PART TIME						
TEMPORARY		18 mos				

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

1. This bill provides increased benefits to active and retired PERS members. It does not provide increases for existing deferred (inactive) PERS members.

2. It is estimated that 70% of the existing deferred PERS members will return to covered PERS employment and qualify for the increased benefits.

3. The increased benefit formulas affect both future and past credited service.

4. The increase in State contribution rate would be 5.32% of covered State payroll (FY82 = $296,614,000) increasing at 10% annually.

5. The cost to political subdivisions is estimated to be $13.5 million in FY82 increasing at 10% each year thereafter.

IV. DATE 2/20/81 PREPARED BY Paul R. Arnoldt, Director

AGENCY Division of Retirement & Benefits

PHONE 465-4460

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named) Senator Ray

1	POSITION TITLE: Retirement & Benefits Technician			RANGE/STEP: 12A	BARG. UNIT: G	LOCATION: Juneau	GOV.	APPROV.
2	TYPE OF POSITION: Project	STAFF MONTHS: 6	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.	

	TYPE OF EXPENDITURE		AMOUNT
	1	3	3
4	PERSONAL SERVICES: SALARY $1,761/Month	$10,566	
5	BENEFITS 2.21%	234	
6	FICA SBS 6.13%	648	
7	HEALTH INS.		
	TOTAL PERSONAL SERVICES 01		$11,448
	TRAVEL 02		
10	CONTRACTUAL 03		
11	COMMODITIES 04		$ 200
12	EQUIPMENT 05		
13	OTHER		
14	TOTAL COST		$11,648

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
		OTHER PERS	$11,648
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

Three (3) Project employees for six (6) months to recalculate the benefits for approximately 2,650 people who are receiving benefits from the PERS. (This estimate is based upon the actual time required to calculate the $25 minimum benefit for approximately 1,016 individuals--Chapter 146 SLA 1980.)

AGENCY Administration PROGRAM Labor Services

BRU Retirement & Benefits

COMPONENT PERS

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 82

1	POSITION TITLE: Retirement & Benefits Technician			RANGE/STEP: 12A	BARG. UNIT: G	LOCATION: Juneau	GOV.	APPROV. / DISAPP.
2	TYPE OF POSITION: Project	STAFF MONTHS: 6	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LHC	

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY $1,761/Month		$10,566	
5	BENEFITS 2.21%		234	
6	FICA SBS 6.13%		648	
7	HEALTH INS.			
8	TOTAL PERSONAL SERVICES	01		$11,448
9	TRAVEL	02		
10	CONTRACTUAL	03		
11	COMMODITIES	04		$ 200
12	EQUIPMENT	05		
13	OTHER			
14	TOTAL COST			$11,648

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER PERS	$11,648
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

Three (3) Project employees for six (6) months to recalculate the benefits for approximately 2,650 people who are receiving benefits from the PERS. (This estimate is based upon the actual time required to calculate the $25 minimum benefit for approximately 1,016 individuals--Chapter 146 SLA 1980.)

AGENCY Administration PROGRAM Labor Services

BRU Retirement & Benefits

COMPONENT PERS

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 82

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISA
1	Retirement & Benefits Technician			12A	G	Juneau			
2	TYPE OF POSITION: Project	STAFF MONTHS: 6	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY $1,761/Month	$10,566	
6	BENEFITS 2.21%	234	
6	VCA SBS 6.13%	648	
7	HEALTH INS.		
8	TOTAL PERSONAL SERVICES 01		$11,448
9	TRAVEL 02		
10	CONTRACTUAL 03		
11	COMMODITIES 04		$ 200
12	EQUIPMENT 05		
13	OTHER		
14	TOTAL COST		$11,648

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1020	
20		OTHER PERS	$11,648
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

Three (3) Project employees for six (6) months to recalculate the benefits for approximately 2,650 people who are receiving benefits from the PERS. (This estimate is based upon the actual time required to calculate the $25 minimum benefit for approximately 1,016 individuals--Chapter 146 SLA 1980.)

AGENCY Administration PROGRAM Labor Services

BRU Retirement & Benefits

COMPONENT PERS

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 82

SB

62

Senate Bill No's 61 & 62

24 Feb 81

Dear Mr. Mulcahy,

I am writing this letter to confirm my feelings in behalf of the state employees and its Citizens on Senate Bill No's 61 and 62.

I think it is only fair to the people of Alaska that this legislation is passed in favor of. It is a fair bill; it represents good work incentive, cooperation, and needed benefits for the state's retirement system. This bill would indeed pass on to the state and its people added benefits not seen now.

Sincerely,

David C. Waite

David C. Waite

cc Don Gilman

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

02-89LH

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a politi subdivision or public organization of the State. . . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative
Services

Paul B. Arnoldt, Director
Division of Retirement and
Benefits

Sandra Withers, Director
Division of Labor Relations

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 62 by Ray

SEC 1: . Terminated employee who is re-employed with in 3 years of termination, would be allowed to reinstate banked medical leave.

SEC.2: (A). Employee, upon retirement, shall receive retirement service credit for all accrued medical leave, at the same rate of pay as his salary upon retirement. (B.) A vested employee (5 years of service), upon termination for reasons other than retirement, shall receive retirement service credit for all accrued medical leave.

SEC.3: An employee, upon retirement, may elect to receive retirement service credit for accrued medical leave.

Effect of amendments. — The 1978 amendment substituted "personal leave" for "annual leave" in the first and second sentences of subsection (a).

The 1979 amendment, in subsection (a), deleted "as a lump sum" following "shall be allowed" in the first sentence, deleted "lump-sum" preceding "payment" in the second sentence, and added the third sentence; in subsection (b), the amendment inserted "balance of the" preceding "unused leave payment" and substituted "equal to the leave payment" for "equal to the compensation" in the first sentence and added "which has been paid to him" to the end of the first sentence, and in subsection (c), deleted "lump-sum" preceding "payment."

Sec. 39.20.255. Conversion of accrued annual leave to personal leave. An officer or employee who has accrued annual leave shall have that annual leave transferred to his personal leave account. (§ 8 ch 136 SLA 1978)

amended

Sec. 39.20.256. Transfer of accrued medical leave. (a) An officer or employee who has accrued medical leave shall have 40 per cent of that medical leave transferred to his personal leave account and 60 per cent of that medical leave transferred to a medical leave bank. Banked medical leave may be taken only in accordance with this section.

(b) An officer or employee may not take any of his banked medical leave unless

(1) he has no accrued personal leave; and

(2) he has a medical disability exceeding 10 consecutive working days in duration; or

(3) he has a medical disability exceeding 30 consecutive working days in duration.

(c) Once the requirements of (b) and (d) of this section have been met, an officer or employee may take banked medical leave until the medical disability is terminated or his banked medical leave is exhausted. If an officer or employee qualifies for banked medical leave under (b)(3) of this section, his banked medical leave may be taken for all working days of the medical disability following the 10th working day of the disability.

(d) When leave is taken under (b)(1) and (2) of this section, a department or agency head may require a doctor's certificate showing the disability. When leave is taken under (b)(3) of this section, the officer or employee must submit a doctor's certificate showing the disability.

(e) The taking of leave under this section shall be reduced by the amount of wage continuation payments made under the Alaska Workers' Compensation Act (AS 23.30).

(f) Upon an officer's or employee's separation from state service, his banked medical leave shall be cancelled without pay. (§ 8 ch 136 SLA 1978; am §§ 1 — 3 ch 52 SLA 1979; am § 60 ch 94 SLA 1980)

add section (9)

Effect of amendments. — The 1979 amendment, retroactive to July 9, 1978, in subsection (b), added "or" to the end of paragraph (2) and added paragraph (3); in subsection (c), inserted "and (d)" in the first sentence and added the second sentence; and in subsection (d), substituted "under (b)(1) and (2)" for

...ote. — This section was ... as AS 39.35.156.

...35.350. Reinstatement of credited service. (a) An ... receives a refund of contributions in accordance with AS ... fits corresponding service under this chapter.

... employee may reinstate credited service associated with a ... paying the total amount of the refund. Interest will accrue ... of the refund until repayment of the refund or retirement, ... occurs first. Payments will apply first to accrued interest ... principal.

... the date of retirement, an employee has not paid in full the ... his reinstatement indebtedness, he may irrevocably elect ... tion one — to receive a refund of the principal paid on the ... ent indebtedness and forfeit the corresponding credited ... option two — to cancel the outstanding indebtedness due ... an actuarial reduction to the retirement benefit for life. ... SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 81 SLA ... 30 ch 128 SLA 1977)

... of amendment. — The 1 77 ... wrote this section.

39.35.360. Earlier service. (a) An employee employed before ... 1, 1980, who completes three years of credited service with the ... after January 1, 1961, for which the employee makes ... contributions required by this chapter is entitled to credited service for ... rendered (1) before January 1, 1961, as an employee of the state ... or Territory of Alaska; (2) before January 1, 1961, as an ... of the United States government in Alaska, excluding service ... armed forces of the United States; or (3) after January 1, 1961, ... peace officer or correctional officer of a participating political ... subdivision of the state if the employee is vested and is an active peace ... officer in the system as of July 1, 1980. The retirement benefits payable ... to an employee under this section shall be reduced by the amount of the ... retirement pension benefits paid to him by the United States ... government for the same period of service.

An employee who is entitled to credited service for employment ... before January 1, 1961, is not required to make retroactive ... contributions under this chapter.

(Effective until January 1, 1981] An elected state official who ... elects to participate in the system under AS 39.35.125 is entitled to ... receive credit for service rendered to the state or territory before 1961 ...

... he pays contributions with respect to all his service rendered to ... the state after January 1, 1961, and

(2) his service rendered to the state after January 1, 1961, totals three years or more.

Repealed by § 41 ch 146 SLA 1980, effective January 1, 1981.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1, 1981. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits

based on retroactive credited service under this subsection.
SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA
ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch
am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA
1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10
1979; am §§ 31, 32, 41 ch 146 SLA 1980)

add Sec. 39.35.365 - medical leave credit
add Sec. 39.35.367 - personal leave credit

Effect of note. — Subsection (a) of this section apparently has no effect after July 1, 1981, since it applies only to employed before that date.

Subsection (f) of this section apparently takes effect after July 1, 1980, since service under this subsection cannot be claimed by that date.

Effect of amendments. — The 1976 amendment, among other things, added language beginning "and heavy equipment operators" to the end of that subsection and added subsection (e).

The 1977 amendment, among other things, substituted "credited service" for "service credit before January 1, 1961" and "this system for prior service" and "this system" for "this system for the period of service credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

Editor's note. — Section 15, ch. 32, SLA 1979 provides that AS 39.35.360(g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section

- Retirement benefits
- [Repealed]
- Conditional service retirement benefits
- [Repealed]
- Voluntary contribution benefit
- Nonoccupational disability pensions
- Occupational disability pensions
- Nonoccupational death benefits
- Occupational death benefit
- Death after occupational disability
- Joint and survivor option
- Spouse survivor benefits under Public Employees Retirement Act of 1949
- Level income option
- Other forms of payment
- Post-retirement pension adjustment
- Cost-of-living allowance
- Minimum benefit
- Designation of beneficiary
- Time limit for application
- Safeguard of employee funds held by the system
- Voluntary waiver of benefits
- Adjustments
- Waiver of adjustments
- Limitation on use of credited service as peace officer or fireman
- Limit on pension
- Medical benefits
- Minimum benefit
- [Repealed]
- Tax exemption
- Effect of amendments

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as peace officer or fireman, or (3) with at least 30 years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit at age 50 with at least five years credited service.

SYNOPSIS OF SENATE BILL NO. 62

SECTION 1

A terminated employee who is re-employed within three years of termination, would be allowed to reinstate his/her banked medical leave.

SECTION 2

Section (a) An employee, upon retirement, shall receive retirement service credit for all accrued medical leave, at the same rate of pay as his salary upon retirement.

Section (b) A vested employee (5 years of service), upon termination for reasons other than retirement, shall receive retirement service credit for all accrued medical leave.

SECTION 3

An employee, upon retirement, may elect to receive retirement service credit for accrued medical leave.

BACKGROUND MATERIAL

SECTION 1 applies only to those employees not represented by a collective bargaining agreement. A personal leave system covers these employees. At the time of conversion from the annual leave system to the personal leave system 60 percent of the employee's accrued medical leave was banked for his/her use in the event of a serious illness. Banked medical leave can only be used if the employee does not have accrued personal leave and he/she has a medical disability exceeding 10

consecutive working days or a medical disability exceeding 30 consecutive working days.

SECTION 2 is a non-negotiable item as the AG's office maintains that retirement is a non-negotiable item and may only be addressed by the legislature.

APEA's interest in this bill is a two-fold one that would prove beneficial to the state, as well as the employee:

1. Many employees retire with hundreds of hours of accrued medical leave left on the books to their credit. It is manifest then that the employee has been conscientious in the usage of medical leave. When this type of employee retires, he/she has garnered a working record of high productivity. It follows that productivity would increase and absenteeism would decrease if all employees received retirement service credit for accrued medical leave. Additionally, it would certainly serve as a retirement incentive goal to accrue as many medical leave hours as possible.
2. Under the present system, there exists a real temptation for some employees close to retirement, to abuse the use of medical leave. Passage of this bill would eliminate all possibility of this eventuality.

SB

63

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 63 by Ray

SEC 1: Terminated employee, with at least 20 years special credited service, is eligible for a normal retirement benefit.

SEC 2: An employee may contribute a percentage of compensation to his employee contribution account towards a 20 year special credited service retirement plan. The administrator will determine the percentage to be contributed by the employee. The employee may terminate his participation at any time and the amount contributed will be treated as a voluntary contribution.

FISCAL IMPACT: $50,000 for the modification of a new data processing system; One full-time employee (retirement benefit technician) $28,339 annual pay with benefits; One 6 month(temporary) (retirement benefit technician) at $11,436.

DEFINITIONS FOR PERS:

CREDITED SERVICE: The number of years (including fractional) recognized for computing retirement benefits.

DEFFERRED VESTED SERVICE: An inactive member who meets the 5 year credited service requirement to qualify for retirement benefits.

EARLY RETIREMENT: A member at least 50, with a minimum of 5 years credited service.

EMPLOYEE CONTRIBUTION ACCOUNT: An account maintained to record mandatory contributions of each employee, including interest and adjustments to the Account.

EMPLOYEE SAVINGS ACCOUNT: An account maintained to record voluntary contributions of each employee including interest and adjustment.

INACTIVE MEMBER: Employee who is terminated and has not received a refund contribution from the system, or layed off, or on leave without pay and has not received a refund.

NON VESTED MEMBER: An active or inactive member who does not meet the 5 year credited service requirement to qualify for retirement benefits.

NORMAL RETIREMENT: Retirement for a member at least 55 years old with a minimum fo 5 years credited service or a peace officer or fireman any age with 20 or more years credited service.

PRESCRIBED RATE OF INTEREST: Rate of interest used for computing employee contributions; preparing actuarial tables used by the system, and for crediting interest to employee contributions and savings accts., and for charging interest on employee indebtedness accounts.

RETIRED MEMBER: An employee who is terminated who has not received a refund from the system and is receiveing a benefit other than disability from the system.

VESTED MEMBER: Active member who meets the 5 year credited service requirements to qualify for Retirement benefits.

Introduced: 1/13/81
Referred: Labor & Commerce
and Finance

IN THE SENATE BY RAY

SENATE BILL NO. 63

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act creating a 20-year retirement option for public employees."

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

* Section 1. AS 39.35.370(a) is repealed and reenacted to read:

(a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 20 years of special credited service, as provided in AS 39.35.355(c), or (4) with at least 30 years of credited service for all other employees.

* Sec. 2. AS 39.35 is amended by adding a new section to read:

new section Sec. 39.35.355. SPECIAL CREDITED SERVICE. (a) In addition to other contributions under this chapter, an employee may contribute to his employee contribution account a percentage of his compensation as determined by the administrator in accordance with (b) of this section.

(b) The administrator shall determine the percentage of compensation required from all participating employees to finance special credited service retirement. The administrator may not increase the required percentage of compensation without substantial actuarial justification.

(c) Credited service for which additional contributions are made under this section is special credited service. At the option of the employee, credited service as a peace officer or fireman shall be considered to be special credited service under this section.

(d) An employee may terminate his participation in special credited service at any time. Upon his termination, the amounts contributed for special credited service shall be treated as voluntary contributions made under AS 39.35.180.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative
Services

Paul B. Arnoldt, Director
Division of Retirement and
Benefits

Sandra Withers, Director
Division of Labor Relations

Synopsis Senate Bill No. 63

Section 1

(3) A terminated employee is eligible for a normal retirement benefit with at least 20 years of special credited service.

Section 2

An employee may contribute to his/her employee contribution account a percentage of his/her compensation towards a 20-year special credited service retirement plan. The administrator will determine the compensation percentage to be contributed by the employee. The employee may terminate his participation in special credit service at any time and the amount contributed will be treated as a voluntary contribution.

Background Material

This provides the 30-year employee with an option of 20-year retirement, under a special credited service plan, whereby he/she, in addition to regular retirement contributions, may contribute to the special account, an amount determined by the administrator.

...based on retroactive credited service under this subsection. ... SLA 1960: am § 4 ch 80 SLA 1964: am §§ 5, 6 ch 155 SLA ... 4 ch 235 SLA 1965; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch ... am §§ 1, 2 ch 245 SLA 1976: am §§ 31 — 33 ch 126 SLA ... 1, 7 ch 174 SLA 1978: am § 3 ch 51 SLA 1979; am § 10 ...LA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

... — Subsection (a) of this ...ly has no effect after ... since it applies only to ...yed before that date.

... this section apparently ...er July 1, 1980, since ... under this subsection ... claimed by that date.

... amendments. — The 1976 ... among other things, added ...ge beginning "and heavy ...operators" to the end of that ... added subsection (e).

...7 amendment, among other ...stituted "credited service for ...nt before January 1, 1961" for ... credit for prior service" and "this ... for 'this system for the period of ...vice credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1976 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (c).

Editor's note. — Section 15, ch. 52, SLA 1979 provides that AS 39.35.360 ... applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section

- ...rement benefits
- ...pealed]
- ...ational service retirement ...nefits
- Repealed]
- ...ntary contribution benefit
- ...occupational disability pensions
- ...pational disability pensions
- ...occupational death benefits
- ...pational death benefit
- ...th after occupational disability ...nd survivor option
- ...ve survivor benefits under Public Employees Retirement Act of ...
- ...income option
- ...ther forms of payment
- Post-retirement pension adjustment
- Cost-of-living allowance
- Minimum benefit
- Designation of beneficiary
- Time limit for application
- Safeguard of employee funds held by the system
- Voluntary waiver of benefits
- Adjustments
- Waiver of adjustments
- Limitation on use of credited service as peace officer or fireman
- Limit on pension
- Medical benefits
- Minimum benefit
- [Repealed]
- Tax exemption
- Effect of amendments

Repealed & Reenacted

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least [20] years of credited service for all other employees.

(b) A terminated employee is eligible for an early retirement benefit ... age 50 with at least five years credited service.

th following that in which has been established" for retroactively to July 1, 1977" at of the subsection and added subsection b

s note. — Section 51, ch. 146 provides: "An employee who is a member of the public employees system on July 1, 1980, is receive increased benefits based ty service granted under AS bl as amended by ch. 13, SLA

dit. (a) A vested employee nich he regularly rendered but was not qualified to exclusion of temporary C[illegible]. Benefits are not nployee makes retroactive time that credited service the full actuarial cost of aimed.

ection, an employee must temporary service before date when the employee ater. When eligibility for an indebtedness shall be Interest as prescribed by ning July 1, 1981, or one mes vested, whichever is at the time an employee to the benefits payable

1980, is eligible to claim obtain credited service e must elect to do so and efore July 1, 198[illegible]. When s been established, an ed in (a) of this section. s on that indebtedness ebtedness existing at the ll require an actuarial the temporary service. section may not be used ts for normal or early

Revisor's note. — This section was [illegible] as AS 39.35.156

Sec. 39.35.350. Reinstatement of credited service. (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) If, on the date of retirement, an employee has not paid in full the amount of his reinstatement indebtedness, he may irrevocably elect either (1) option one — to receive a refund of the principal paid on the reinstatement indebtedness and forfeit the corresponding credited service, or (2) option two — to cancel the outstanding indebtedness due by accepting an actuarial reduction to the retirement benefit for life. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 51 SLA 1976; am § 30 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

→ insert Sec. 39.35.355

Sec. 39.35.360. Earlier service. (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer or correctional officer of a participating political subdivision of the state if the employee is vested and is an active police [illegible] in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to him by the United States government for the same period of service.

(b) An employee who is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) [Effective until January 1, 1981] An elected state official who elects to participate in the system under AS 39.35.12[illegible] is entitled to service credit for service rendered to the state or territory before 1961 if

(1) he pays contributions with respect to all his service rendered to the state after January 1, 1961, and

or of courts. An
system who withdraws
§ 22.25.012 is eligible for
e credited service in the
e director. To be eligible
this subsection, the
he system
if he had been a member
dicial retirement system

administrative director
e became a member of the
LA 1980)

Employees.

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nd upon death of retired
ployee
hdrawal of voluntary con-
butions

contributions. (a) While
cer and each fireman shall
ployee shall contribute four
on to the public employees'

nd § 39 ch 146 SLA 1959;
A 1968; am § 3 ch 35 SLA
159 SLA 1972; am § 2 ch
146 SLA 1980)

al election conducted by the Pu
yees Retirement Board to be
active members of the retire
. During the conduct of
n, the division shall
ial and take no position in
on "The amendment was repeal
blic employees
tion 1, ch 35, SLA 1979, purs
subsection (a) of this
9 of ch. 35 provided that
ment take effect on Janua
if approved by a majority of
a special election conducted

January 1, 1980, by the Department of Administration among the active members of the Public Employees' Retirement System. The amendment was rejected.

Legislative history report. — For report on ch. 159, SLA 1972 (FCCS HCS CSSB 264), see 1972 House Journal, p. 924.

Sec. 39.35.170. Employment contributions mandatory. Contributions of employees shall be made by payroll deductions. Every included employee shall be considered to consent to payroll deductions. It is of no consequence that a payroll deduction may cause the compensation paid in cash to an employee to be reduced below the minimum required by law. Payment of an employee's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration of his services during the period covered by the payment, except with respect to the benefits provided under the system. (§ 8 b ch 143 SLA 1960; am § 3 ch 155 SLA 1966)

Negotiability of retirement system benefits. — Given AS 39.35.120(b) and this section, which make inclusion in the public employees retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070—23.40.260). January 23, 1978, Op. Att'y Gen.

Sec. 39.35.180. Voluntary contributions by employee. In addition to the mandatory contributions required of an employee under AS 39.35.170, an employee may, during each calendar year he is participating in the system, voluntarily contribute to his employee savings account an amount not to exceed five per cent of his compensation for that year. (§ 8 c ch 143 SLA 1960)

Sec. 39.35.190. Disposition of contributions.

Repealed by § 55 ch 128 SLA 1977

Editor's note. — The repealed section derived from § 8 d, ch. 143, SLA 1960.

Sec. 39.35.200. Refund upon termination of employment for reason other than death. (a) An inactive employee, not on leave without-pay status or layoff status, is entitled to receive a refund of the balance of (1) his employee contribution account and (2) his employee savings account.

(b) If, upon termination of employment, an employee has credited service of less than five years and has less than $1,000 in his employee contribution account, a refund of the employee contribution account and the employee savings account must be made. An employee who is

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 63
Title An Act creating a 20-year retirement option for Public Employees
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Administration - Division of Retirement and Benefits
Program Category Affected Labor Services
BRU, Program, or Subprogram(s) Affected 02-96-8-01-01-01 (PERS)
(Note: If more than one budget component is affected, separate line-item amounts and funding fo component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	
100 PERSONAL SERVICES		39.8	30.0	31.8	33.8	
200 TRAVEL						
300 CONTRACTUAL		52.7				
400 COMMODITIES		0.4	0.2	0.2	0.2	
500 EQUIPMENT		1.8				
600 LAND & STRUCTURES						
700 STATE TRS MATCHING						
100 BENEFITS						
TOTAL	-0-	94.7	30.2	32.0	34.0	

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
VETERAN'S FUND						
FISH & GAME FUND						
HIGHWAY FUND						
AIRPORT FUND						
CAPITAL FUND						
PERS		94.7	30.2	32.0	34.0	
TRS						

POSITIONS

FULL TIME		1	1	1	1	
PART TIME						
TEMPORARY		6 mo.				

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

1. Estimate that approximately 10,000 members could potentially qualify for benefits under this bill.

2. The cost to modify our new Data Processing System to provide for contributions indebtedness payments for the Special Credited Service is estimated to be approximately $50,000.

3. The cost of the benefits provided under this bill would be paid by the members' contributions to the Special Credited Service Account.

4. One project employee (6 months) to initialize the program and one full-time emp to maintain the program will be required.

5. Personal Services for the full-time employee increase at 6% per annum.

Paul B. Arnoldt

IV. DATE 2/24/81 PREPARED BY Paul B. Arnoldt, Director
AGENCY Division of Retirement & Benefits
PHONE 465-4460

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

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DI
1	Retirement & Benefits Technician			12/B	G	Juneau			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12							

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
	PERSONAL SERVICES:			
4	SALARY $1,814/month		$21.768	
5	BENEFITS 15.79%		3,437	
6	SBS 6.13%		1,334	
7	HEALTH INS. $150/month		1,800	
8	TOTAL PERSONAL SERVICES	01		$28,339
9	TRAVEL	02		
10	CONTRACTUAL LEASE SPACE COSTS			2,700
11	COMMODITIES	04		200
12	EQUIPMENT	05		1,800
13	OTHER			
14	TOTAL COST			$33,039

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER PERS	$33,039
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

This employee will be responsible for implementing the Special Credited Service program. This will invol e ensuring that the data processing programs are establis for record keeping, that past service indebtednesses ar calculated, that future service contribution rates for individuals are established, and that members are infor and counceled regarding the Special Credited Service program.

AGENCY Administratio PROGRAM Labor Services

BRU Retirement and Benefits

FY 82

2	Project	6	

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY $1,761/month	$10,566	
5	BENEFITS 2.10%	222	
6	SBS 6.13%	648	
7	HEALTH INS.		
8	TOTAL PERSONAL SERVICES	01	$11,436
9	TRAVEL	02	
10	CONTRACTUAL	03	
11	COMMODITIES	04	200
12	EQUIPMENT	05	
13	OTHER		
14	TOTAL COST		$11,636

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN FUND 1004	
18		I-A RCPTS. 1007	
19		PGM RCPTS 1008	
20		OTHER PERS	$11,636
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER: ..... COLUMN NO. _____

JUSTIFICATION:

This employee will assist the full-time Retirement and Benefit Technician during the initial 6 months while this program is being implemented.

The employee will assist in answering questions regarding the Special Credited Services benefit, will calculat indebtednesses for past service eligible for credit under the Special Credited Services Account, and will establish the contribution rate for future service for individual members.

AGENCY Administration PROGRAM Labor Services

BRU Retirement & Benefits

COMPONENT PERS

13 REQUEST FOR NEW POSITION.

FY 82

Page 3 of 3

REVISED DATE _____

SB 63

SB

81

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 81 by Colletta

This bill increases the number of persons on the board of directors for the AHFC, providing for one additional member (public), and a contractor licensed under AS 08.18, to be appointed by the governor.

The bill further states that both the public member and the appointed contractor shall serve two year terms, however the public members' initial term shall be limited to one year, per Sec. 4

Both members shall receive $100 daily compensation while conducting official business of the corporation, plus reimbursement by the corporation for actual expenses at the same rate as persons serving on State Boards.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

POSITION ON SB 81:

In telephone conversation with Mr. Harry Goldbar, Director of the AHFC, he related his feelings were ambivalent concerning the expansion of the board of directors. Presently the board functions well, and the proposed expansion may possibly complicate getting members together, both physically and philosophically.

Mr. Goldbar also explained the only perceived difficulty with the appointment of a contractor would be a possible conflict of interest, i.e. having a "lobbyist" sitting on the board, however he emphasized that was merely a possibiltiy.

(e) Expansion of the program of the Alaska Housing Finance Corporation of purchasing insured and uninsured mortgage loans is essential to the economic growth of the state and the supply of adequate residential housing in the state.

(f) The legislature finds that enabling the Alaska Housing Finance Corporation to assist in financing the program of veterans' loans for residential housing in accordance with AS 26.15 and to expand its program of purchasing other mortgage loans serves a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public. (am § 4 ch 151 SLA 1975)

Effect of amendment.

The 1975 amendment added subsections (d), (e) and (f).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative history report.

For report on ch. 151, SLA 1975 (HCS CSSB 289 am H), see 1975 Senate Journal, p. 769; 1975 House Journal, p. 1275.

Sec. 18.56.020. Alaska Housing Finance Corporation. The Alaska Housing Finance Corporation is a public corporation and government instrumentality within the Department of Revenue, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (§ 1 ch 107 SLA 1971; am § 78 ch 218 SLA 1976; am § 12 ch 106 SLA 1980)

Effect of amendments. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in the first sentence.

The 1980 amendment, effective June 21, 1980, substituted "Revenue" for "Commerce and Economic Development" following "Department of" near the middle of the first sentence.

Editor's note. — For legislative findings and intent relating to the Alaska Housing Finance Corporation, see § 10, ch. 106, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

Sec. 18.56.030. Corporation governing body. (a) The corporation shall be governed by a board of directors consisting of

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other member who is the head of the principal department of the executive branch of state government appointed by the governor; and

(3) two public members appointed by the governor.

(b) If a member described in (a)(1) or (2) of this section is unable to attend a meeting of the board, he may by an instrument in writing filed with the board, designate his deputy or assistant to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the board at the meeting.

(c) The board mem
serve two-year terms.
described in (a)(3) of t
(d) If a vacancy occ
appointment, effective
term.

(e) The members of
received $100 compens
the corporation and m
and necessary expens
boards under AS 39.20

(f) (effective on the
constitution propose
appointment or reappo
or (a)(3) of this section
the members of the legi
to confirm the appointm
executive branch as a m
another principal depar
member, subject to con
appointed to fill a vac
confirmation under this
15[illegible] SLA 1975; am § 79 c
§§ 13, 14 ch 106 SLA 19

Effect of amendments. —
amendment substituted "six" fo
the first sentence of this sec
existed prior to the 1978 amen

The 1976 amendment s
"commissioner of commerce and
development" for "commis
commerce" in the first senten
section as it existed prior to
amendment.

The 1978 amendment rew
section.

Section 13, ch. 106, SLA 1980
July 1, 1980, rewrote the sectio
14, ch. 106, SLA 1980, effecti
effective date of an amendmer
Constitution of the State of Alas
provides for confirmation
legislature of appointments as pr
§§ 14 and 50 of this Act, added s
(f).

The amendment to the con
mentioned above is proposed
Legislative Resolve No. 43 to be s
to the voters at the 1980 general

Editor's note. — Section 10,

(c) The board members described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs on the board, the governor shall make an appointment, effective immediately, for the unexpired portion of the term.

(e) The members of the board described in (a)(3) of this section received $100 compensation for each day spent on official business of the corporation and may be reimbursed by the corporation for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(f) (effective on the effective date of the amendment to the constitution proposed in 1980 Legislative Resolve No. 43) The appointment or reappointment of a member to the board under (a)(2) or (a)(3) of this section is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of the head of a principal department of the executive branch as a member, the governor shall appoint the head of another principal department of the executive branch to serve as a member, subject to confirmation under this subsection. A member appointed to fill a vacancy under (d) of this section is subject to confirmation under this subsection. (§ 1 ch 107 SLA 1971; am § 5 ch 151 SLA 1975; am § 79 ch 218 SLA 1976; am § 1 ch 167 SLA 1978; am §§ 13, 14 ch 106 SLA 1980)

Effect of amendments. — The 1975 amendment substituted "six" for "four" in the first sentence of this section as it existed prior to the 1978 amendment.

The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in the first sentence of this section as it existed prior to the 1978 amendment.

The 1978 amendment rewrote this section.

Section 13, ch. 106, SLA 1980, effective July 1, 1980, rewrote the section. Section 14, ch. 106, SLA 1980, effective on the effective date of an amendment to the Constitution of the State of Alaska which provides for confirmation by the legislature of appointments as provided in §§ 14 and 30 of this Act, added subsection (f).

The amendment to the constitution mentioned above is proposed in 1980 Legislative Resolve No. 43 to be submitted to the voters at the 1980 general election.

Editor's note. — Section 10, ch. 167, SLA 1978 provides: "Section 1 of this Act affects the terms of the public members of the board of directors of the Alaska Housing Finance Corporation who are serving on the effective date of this Act. Not later than 30 days after the effective date of this Act the governor shall determine the length of the term of the members of the board of directors of the corporation serving on the effective date of this Act and, by letter directed to the president of the Alaska Legislative Council, designate the members whose terms shall end on the date provided in § 1 of this Act during 1979, 1980, and 1981. The terms of the members of the board of directors serving on the effective date of this Act shall terminate on the date designated by the governor in his letter, and thereafter, members of the board shall be appointed in accordance with the provisions of this Act."

Legislative history report. — For report on ch. 151, SLA 1975 (HCS CSSB 299 am H), see 1975 Senate Journal, p. 769; 1975 House Journal, p. 1275.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

SB 81

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 81

Title "An Act increasing the number of directors of the Alaska Housing Finance Corp."

Requested by Senate Finance Committee
Senate Labor & Commerce Committee

Date 1/14/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Economic Development

BRU, Program, or Subprogram(s) Affected Alaska Housing Finance Corporation

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL		9.8	10.8	11.9	13.1	14.3
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	9.8	10.8	11.9	13.1	14.3

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	9.8	10.8	11.9	13.1	14.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

The legislation provides for two additional public members. Above costs include $100 per day compensation for meetings, 12 meetings per year; travel and per diem related to attendance.

IV. DATE January 26, 1981 PREPARED BY Anselm C. Stanek, Treasury Comptroller

AGENCY Department of Revenue, Treasury Division

PHONE 465-2351

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

33-001 (Rev. 12/80



COMMITTEE REPORT

SENATE

FURTHER: None

1/15/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 85 permitting a minor under age of 18 to be employed in occupation in which a strike or lockout is in progress

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS

Bob Marbut

MEMBERS HAVING OTHER RECOMMENDATIONS:

Engle - No Rec.

Fahrenkamp - No Rec

Bob Marbut

CHAIRMAN

S 60 (Rev. 12/78)

Minors can picket, can't work

by Clark Brooks
Times Writer

Kids are people, too, goes the civil liberties cry, but a state labor law has some Anchorage youngsters wondering about their rights.

The Proctor's Grocery chain, whose Retail Clerks Union employees have been on strike since late August, was forced to lay off 15 teen-age box boys and maintenance workers Wednesday because of a state law that says its too dangerous for minors to cross picket lines. However, the law does not prohibit minors from picketing.

"It sounds to me like it's a violation of equal protection." Anchorage attorney Collin Middleton said today. "If you have a law that says it's OK to picket but not OK to work, how do you justify that?"

"I'm highly upset," said Robert Swanson, whose son Darrell Kampstra is among those out of a job today. "If a minor can picket, there's no reason he can't work. Darryl has worked at Proctor's a year and a half and never missed a day. I'm willing to get the other parents together, get a lawyer and take this thing to court."

Another youngster who lost his job, 15-year-old Scott Edgar, said the law violates his civil rights. He also criticized the law's double standard and questioned its validity.

"I feel that it's not right at all," he said today. "If I'm not allowed to work then why are kids under 18 allowed to picket? The law says it's dangerous to be working because you'll get beat up or something by the picketers. But it's not like that. I know most of the people picketing and they wouldn't hurt anybody."

Edgar, who earned $4.20 an hour as a box boy, called the state Department of Labor to find out why minors can picket but aren't allowed to work. He was told that the union assured the Labor Department that no minors were on the line. Union labor relations consultant Bob Bacolas Sr. told The Times this morning that he didn't know of any minors picketing.

Edgar, however, said there were several, including his neighbor, 16-year-old Kevin Spannagel. Linda Spannagel, Kevin's mother, confirmed today that her son has been picketing.

State Department of Labor official Dale Cheek said this morning that minors "have a right to picket but don't have a right to work." The reason he said, is that the youngsters on strike are not on the Proctor's payroll. The Labor Department, Cheek said, is investigating reports that the union has hired minors to picket, which is illegal.

Proctor's owner Orville Proctor said his main concern is how the layoffs will affect the youngsters.

"I think these kids are getting punished more than anyone else. That's the thing I hate about it. It's hurting the kids. It's not really hurting our company that much."

Parry Grover, Proctor's attorney, said the company has requested the Labor Department to review the matter. However, he said he doesn't intend to take the issue to court.

Grover said he was surprised when the state ordered enforcement of the law.

"It's been on the books a long time," he said, "and my understanding is that it's usually overlooked. This time it wasn't."

The Labor Department ordered the layoffs after receiving from Proctor's a routine request to approve employment of two minors.

October 7, 1980

8215 East Second Avenue
Anchorage, AK 99504

Senator M.E. Dankworth
2425 Hialeah Drive
Anchorage, AK 99503

Dear Senator Dankworth:

Our son James G. Anderson has been working part-time for Proctors Country Supermarkets in Anchorage since August of 1978. This includes part-time during the school year and approximately 30 hours per week during the summer school vacation. In August 1980 the Retail Clerk's Union went on strike against Proctors. Our son decided to cross the picket line and continued to work. On October 1, 1980 our son was layed off based on the State Department of Labor's notifying Proctors that it was illegal for a minor to work in a business establishment where a strike is in progress "8AAC 05.250" which reads as follows:

> OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS. Work in any industry where a strike or lockout is in progress is dangerous and prohibited to minors under 18 years of age.

The law is clear and it's simply forced Proctors to take action by laying off all employees under 18 years of age. Interestingly enough the law does not apply to the striking picketers. The Retail Clerk's Union has a number of picketers under the age of 18 who continue to picket, continue to be paid and even continue to receive work credit from the local high school. In our son's case he loses this work credit.

As you might guess it's pretty difficult to convince a 17 year old that the system is fair when juvenile strikers can picket, get paid and receive school credit but the person who crosses the picket line and supports private enterprise gets layed off and loses salary, benefits and school credit. We've taught our son to be law abiding and support private enterprise but these obvious contradictions in the law make it difficult.

My recommendations are that 8AAC 05.250 be repealed. I believe that parents and employers can make a fair determination on the danger to juveniles during a strike situation and take appropriate action. An alternative course of action would be to modify the regulation to include all juveniles both picketers and working employees but I strongly feel the first course of action is the best.

I urge you to take whatever action necessary to repeal this unfair labor orientated regulation that makes no sense to private enterprise or the general public. Thank you in advance for your support.

Sincerely yours,

Christiane G. Anderson

C.G. Anderson

CGA/cn

PROCTOR'S GROCERY
7943 Ruben St. Anchorage AK 99504. Phone 333-8488

October 6, 1980

Senator Ed Dankworth
2425 Hialeah Drive
Anchorage, Alaska 99503

Dear Senator Dankworth;

I am writing with reference to the labor law that has recently been enforced at our grocery stores in regard to the minors not being able to work due to the current strike but yet they can carry a picket sign. If in fact this law was made to protect the youth from violence during a strike how then can we justify allowing them to be right in the firing line?? Also, are there so many "violent" actions taken during strikes to warrant a law that tells our young people it's better to walk a picket line than to earn a days pay for a days work? Then too I think this law is extremely discriminitory..If age nineteen you can work but if you happen to be seventeen you may not. I am not a parent but certainly concerned with the welfare of the young people and I sure don't think this law is doing them any kind of justice. At the age of seventeen it would not be too far out to think that some of these kids are buying cars or even not living at home. How are they to meet their responsibilities? I urge you to do your best to get rid of this unreasonable law. Thank you very much for any help you can give the kids.

Sincerely,

Bonnie J. Proctor

MEMORANDUM State of Alaska

TO: Dale Cheek
Wage & Hour Division
Department of Labor

DATE: January 5, 1980
ALASKA DEPT. LABOR
RECEIVED
FILE NO: J-66-354-81
JAN 6 '81
TELEPHONE NO: 465-3603

FROM: WILSON L. CONDON
ATTORNEY GENERAL

SUBJECT: Minor's Right to Work During Strike

By: [signature]
Bruce M. Botelho
Assistant Attorney General

You have requested that this department review the legal basis of 8 AAC 05.250. That regulation provides:

> 8 AAC 05.250. OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS. Work in any industry where a strike or lockout is in progresss is dangerous and prohibited to minors under 18 years of age.

AS 44.62.030 declares in part that "no regulation adopted is valid or effective unlesss consistent with the statute and reasonably necessary to carry out the purpose of the statute."

The cited authority for 8 AAC 05.250 is AS 23.10.350 and AS 23.10.360. There are set forth below:

> Sec. 23.10.350. EMPLOYMENT OF CHILDREN UNDER 18. (a) No minor under 18 years of age may be employed or allowed to work
>
> (1) more than six days a week;
>
> (2) in hazardous excavation, or underground in mines; or as hoisting engineer in mines; or
>
> (3) in an occupation dangerous to life or limb or injurious to his health.
>
> (b) If the commissioner determines that the duties to be performed by the minor would not unduly endanger the life, limb, or health of the minor and if the employment meets the conditions of wages and hours prevailing for the majority of the employees in the industry at the time of employment, the commissioner may grant an exemption in writing from (a) of this section for a minor 16 - 18 years of age

02-001A(Rev.10/79)

at those duties

(1) outside school hours, or while on school vacation, if the minor is attending school; or

(2) if the minor is no longer attending school.

Sec. 23.10.360. REGULATIONS FOR MINIMUM STANDARDS AND WORK OPPORTUNITIES. (a) The department may, from time to time after public notice and hearing, promulgate rules, regulations and orders establishing minimum standards for safety, working conditions, kind and extent of work in various phases of the respective fields of employment, maximum hours for the day and week, and minimum rates of pay, and other reasonable safeguards compatible with the welfare of all minors covered by §§ 325 - 370 of this chapter.

(b) The department shall make cooperative arrangements with other state and federal agencies and shall promulgate the regulations which are necessary to provide opportunities for work experience in safe and healthful occupations for minors.

(c) The department shall, after notice and hearing, promulgate regulations authorizing the employment of minors under 18 years of age and exempting appropriate employers from the reporting requirements of § 332 of this chapter.

While AS 23.10.350 does not appear to support 8 AAC 05.250, AS 23.10.360 expressly confers authority on the department to adopt regulations providing for "reasonable safeguards compatible with the welfare of. . . minors."

In 8 AAC 05.250 the department determined that minors should not be employed on business premises during a strike or lockout because of the risk of violence. This determination is compatible with AS 23.10.360 and the general purpose of child labor laws, to prevent injury to minors. Ramos v. County of Madra, 94 Cal. Rptr. 421, 484 P.2d 93 (Cal. 1971), Lopanic v. Berkeley Cooperative Gin Co., 191 S.2d 108 (Miss. 1966).

We do not believe a significant equal protection issue is raised by the mere fact that minors may take part in a strike while being prohibited from working on the premises in light of the fact that the legislature has conferred authority on the department only to regulate the employment of minors.

BMB/jal

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM March 23, 1981

SUBJECT: Minor picketing (Work Order No. 12-1204) SB 85

TO: Senator Bob Mulcahy

FROM: Linn H. Asper
Legislative Counsel

You have asked if a statute prohibiting persons under the age of 18 from picketing in a peaceful strike or lockout will present constitutional problems with regard to picketing. The general rule is:

> A statute or ordinance may, in the exercise of police power, authorize, and reasonably restrict and regulate, picketing, in order to avert some definite substantial danger clearly arising from the picketing, provided it does not deprive the citizen of his fundamental rights. Regulation by statute or ordinance must have a reasonable basis, and the regulations limiting or restricting the picketing must not be unreasonable or discriminatory. 51A C.J.S., Labor Relations, sec. 267.

Although the state has power to restrict the activities of minors, it appears that the restriction posed by your request is without justification. A peaceful strike presents no inherent substantial danger to a minor, and restricting the minor's right to participate would clearly deprive him of the fundamental right of freedom of expression. A Supreme Court case discusses in detail the types of things which constitute a reasonable basis for restricting the right to picket. These include prevention of disorder, restraint of coercion, protection of life or property, and promotion of general welfare. Edwards v. Commonwealth, 60 S.E.2d 916, 191 VA 272. There appears to be no connection between these justifications for restricting a minor's right to picket and to participate in a peaceful strike.

It has also been held that a state may enjoin peaceful picketing if it is done to enforce a valid public policy. Burr v. N.L.R.B., 321 F.2d 612 (1963). Again, there appears to be no policy sufficient to justify arbitrary discrimination against laborers under the age of 18.

One qualification to my opinion that minors cannot be barred from picketing in a peaceful strike is that determining that a strike is going to be peaceful may be quite difficult, and if there is even a moderate risk that the picketing could result in violence, the state could step in to protect minors by refusing to allow them to participate in a potentially dangerous situation.

LHA:ljb

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-2700

January 20, 1981

Honorable M. E. Dani h
Alaska State Senator
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Senator Dankworth:

Enclosed for your information is a Department of Labor Position Paper on Senate Bill 85, which deals with the employment of minors in work-places where a strike or lockout is in progress.

If you have any questions, please let me know.

Sincerely,

Judy Knight

Judy Knight
Legislative Liaison

Enclosure

cc w enc: Senate Labor & Commerce Committee

JAN 21 1981

07-G9LH

Bill No. Senate Bill 85

Date January 20, 1981

Title "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Contact: Judy Knight
465-2700
Dale W. Cheek
465-4870

This bill would clarify AS 23.10.350(3) in that it would specify that a minor under the age of 18 working in a place where a strike or lockout was in progress would not necessarily be in "an occupation dangerous to life or limb or injurious to health" per se. This would also bring our law into conformity with the Fair Labor Standards Act because that act and the regulations promulgated to implement it do not prohibit a minor from working in a place where a strike is in progress, if the occupation is otherwise permissible.

If this bill is passed into law it would appear that the Commissioner of Labor could still determine that a minor working where a strike or lockout was in progress could be endangered if that particular strike or lockout manifested into violence or because of the intensity of the situation. So, under certain conditions minors could still be prohibited from working in strike situations.

Departmental Position: Neutral

Fiscal Impact: -0-

POSITION PAPER/Department of Labor

STATE OF ALASKA

DEPARTMENT OF LABOR

WAGE AND HOUR DIVISION

JAY S. HAMMOND, GOVERNOR

P.O. BOX 630
JUNEAU, ALASKA 99811
PHONE: (907) 465-4870

January 9, 1981

The Honorable Ed Dankworth
Alaska State Legislature
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: 8 AAC 05.250 OCCUPATIONS IN ANY INDUSTRY WHERE A STRIKE OR LOCKOUT IS IN PROGRESS.

Dear Senator Dankworth:

A member of your staff, Ms. Theresa Friend, who was doing research on the regulation in question requested that I furnish you with a copy of the Attorney General's Opinion. I have just recently received a copy of Mr. Bruce M. Botelho's Opinion File No. J-66-354-81.

The opinion by Mr. Botelho sets out the Department position that was followed throughout this strike at Proctor's. I felt from the first that we had no authority over those minors who volunteered to walk the picket line as long as they did not received a salary; because the Statutes and Regulations refer to "employed by", "working at", and other terms relating to a employer/employee relationship. Although it appeared to be blatantly unfair to remove minors who were working and allow minors to picket I did not think then and I do not think now that the Department of Labor had any authority over those volunteer pickets.

If you are contemplating revisions to the Statutes or Regulations, I would appreciate the opportunity to work with your staff. If I can be of further service in this matter, please advise.

Very truly yours,

Dale W Cheek

Dale W. Cheek
Director
Wage and Hour Division

DWC/jep
cc: Commissioner Orbeck
Enclosure

07-G27LH

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Summary - SB 85 by Senator Dankworth

"An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Title explains intent of legislation. No fiscal impact. This subsection permits a minor to work where a strike is in progress but requires the Commissioner of Labor's approval as to the safety of the situation.

The Department of Labor has provided a position paper in which they state that they are neutral regarding the subject.

Attached:
Copy of the Bill
Copy of the affected Statute
Dept. of Labor Position Paper
Backup material relating to reason for legislation

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:09 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 200 "An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Senator Dick Eliason addressed SB 200, explaining the background of the fisheries business tax, and that the tax is retroactive for two years. (tape reading 010 to 272)

Mr. Gary Jenkins, Director of the Audit Division, Department of Revenue testified on the problems with administrating the bill; fish buyers are not always identifiable. Suggested language- salmon must be sold to a licensed processor; easier to administer. (tape reading 275 to 458)

Mr. Lewis Schnaper representing the Alaska Trollers Association testified in support of SB 200, stating that the class of fishermen who have made substantial investments, 50 to 75 trollers with freezing capacities would be impacted; less economical to freeze but the quality speaks to the need. The Canadians recognize the value of sea frozen salmon, and it is the most effective use of a fishermans fuel.

Senator Pat Rodey offered proposed language; frozen salmon must be transferred to a licensed buyer.

Chairman Mulcahy moved we accept Senator Rodeys amendment and move SB 200 as amended. (tape reading 570)

Next on the agenda was SB 81 "An Act increasing the number of directors of the Alaska Housing Finance Corporation."

This bill was brought up for discussion; Senator Ziegler questioned the need for the bill, Senator Mulcahy offered background on the bill, and it was decided to hold the bill for later. (tape reading 580 to 630)

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Chairman Mulcahy offer background testimony, and addressed the constitutionality of the rights of minors to picket. Chairman Mulcahy proposed we move the bill and Senator Hohman recommended the bill move from Committee. (tape reading 634 to 653)

Next on the agenda was SB 282 "An Act relating to the legal rate of interest."

Mr. Fred Koken, First Vice-President of Foster and Marshall testified on SB 282, elaborating on the problems with SB 19 usury rates, and how the bill did not reflect the needs of his industry. The policy on interest at Foster & Marshall is dictated by competition in the industry. (tape reading 678 to 830)

Committee ~~action on~~ moved SB 282 ~~was "Do Pass"~~

Next on the agenda was SB 172 "An Act relating to Unifor Commercial Code filings; and providing for an effective date."

There was no testimony and it was recommended that we hold the bill for further work. (tape reading 660 to 669)

The meeting was adjourned by Chairman Mulcahy at 3:50 P.M.

Editor's note. — The repeal of section derived from § 7, ch. 117, SLA 1965.

Article 7. Employment of Children.

Section		Section	
332.	Authorization for children under 17 to work	350.	Employment of children under 18
340.	Children under 16	355.	Persons under 19
345.	[Repealed]	360.	Regulations for minimum standards and work opportunities

Sec. 23.10.332. Authorization for children under 17 to work. Except for employment exempted under AS 23.10.330 and other employment specifically exempted by regulations adopted by the department, no minor under 17 years of age may be employed or allowed to work without the written authorization of the commissioner unless authorized under AS 23.10.360. The department shall adopt regulations necessary to implement this section. (§ 3 ch 112 SLA 1976)

Sec. 23.10.340. Children under 16.

(b) Repealed by § 7 ch 112 SLA 1976.

(am § 7 ch 112 SLA 1976)

Effect of amendment. — The 1976 amendment repealed subsection (b), which read "No minor under 16 years of age may be employed or allowed to work in a restaurant."

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 23.10.345. Exemptions for minors over 16 or who have graduated from high school.

Repealed by § 7 ch 112 SLA 1976.

Cross references. — As to authorization for children under 17 to work, see AS 23.10.332. As to employment of children under 18, see AS 23.10.350. For provisions authorizing employment of minors on licensed premises of a hotel or restaurant, see AS 04.15.020(b).

Editor's note. — The repealed section derived from § 2, ch. 73, SLA 1949; § 1, ch. 28, SLA 1951; § 1, ch. 26, SLA 1964.

Sec. 23.10.350. Employment of children under 18. (a) No minor under 18 years of age may be employed or allowed to work

(1) more than six days a week;

(2) in hazardous excavation, or underground in mines; or as hoisting engineer in mines; or

(3) in an occupation dangerous to life or limb or injurious to his health.

(b) If the commissioner determines that the duties to be performed by the minor would not unduly endanger the life, limb, or health of the minor and if the employment meets the conditions of wages and hours prevailing for the majority of the employees in the industry at the time

of employment, the commissioner may grant an exemption in writing from (a) of this section for a minor 16 — 18 years of age to work at those duties

SB85 (C)

(1) outside school hours, or while on school vacation, if the minor is attending school; or

(2) if the minor is no longer attending school. (§§ 2, 3 ch 73 SLA 1949; am §§ 1, 2 ch 28 SLA 1951; § 4 ch 73 SLA 1949; am § 84 ch 127 SLA 1974; am § 4 ch 112 SLA 1976)

Effect of amendments. — The 1974 amendment deleted "if the minor is a girl" from the beginning of paragraph (3) of this section as it existed prior to the 1976 amendment.

The 1976 amendment rewrote this section.

Premise behind present paragraph (3) of subsection (a). — The child labor laws, and present paragraph (3) of subsection (a) of this section in particular, are premised in part on the notion that a child is not competent to assess the risks of personal injury and exploitation attendant in the performance of hazardous activities. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Illegally-employed child may assert common-law rights against employer. — Where an employer has knowingly entered into an illegal contract of employment with a child, in express violation of a statute, the employer will not be permitted to insist that a child is an "employee" within the terms of the Workmen's Compensation Act, so that the child can no longer assert its common-law rights against the employer. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Absent any evidence of a conscious intent on her part to choose compensation benefits, an illegally employed minor cannot be held to have waived her right to a common-law remedy. Whitney-Fidalgo Seafoods, Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

And AS 23.30.055 does not bar common-law damage action by such child. — AS 23.30.055, the exclusive liability provision of the Alaska Workmen's Compensation Act, does not bar a common-law damage action when such an action is brought against an employer by a person who was employed in violation of child labor laws at the time of injury. Whitney-Fidalgo Seafoods Inc. v. Beukers, Sup. Ct. Op. No. 1277 (File No. 2654), 554 P.2d 250 (1976).

Sec. 23.10.355. Persons under 19. No person under 19 may be employed or allowed to sell or serve intoxicating liquors or to work in any room or other place where intoxicating liquors are sold for consumption on the premises, except as provided in AS 04.15.020(h). (§ 3 ch 73 SLA 1949; am § 2 ch 28 SLA 1951; am § 24 ch 245 SLA 1970; am § 5 ch 112 SLA 1976)

Effect of amendment. The 1976 amendment substituted "AS 04.15.020(h)" for "AS 04.15.020 d)" at the end of the section.

Sec. 23.10.360. Regulations for minimum standards and work opportunities.

(c) The department shall, after notice and hearing, promulgate regulations authorizing the employment of minors under 18 years of age and exempting appropriate employers from the reporting requirements of § 332 of this chapter.
(am § 6 ch 112 SLA 1976)

SB

114

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 11, 1981

Mr. Michael Thill
Senate Labor and Commerce
Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

At your request, we offer the following information concerning Senate Bill 114.

There are approximately ninety partially exempt division directors; fifty deputy directors and assistant directors and possibly an additional 100 to 150 employees with a similar level of authority. The division directors are currently not represented for the purposes of collective bargaining.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

Ph: 465-2700

February 23, 1981

Mr. Mike Thill
Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Mike:

Per your request, attached is a position paper on Senate Bill 114, "An Act relating to the scope of collective bargaining under the Public Employment Relations Act."

If you have any questions, please advise.

Sincerely,

Judy

Judy Knight
Special Assistant

07-G9LH

Bill No. Senate Bill No. 114

Date February 23, 1981

Title "An Act relating to the scope of collective bargaining under the Public Employment Act."

Contact: Judy Knight JK
Ph: 465-2700

The Department of Labor has in its employ personnel classified at the deputy director and assistant director levels, and supports the proposed change in this bill which would exclude personnel in these classifications from the scope of collective bargaining. These employees are key management officials essential to departmental operation, particularly in the event of a strike of State employees.

The bill does not appear to have any effect on the departments' role as a labor relation agency for public employees, who are not State employees.

POSITION PAPER/Department of Labor

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 114:

The definition of "Public Employee" is ammended to exclude deputy or assistant directors, or persons with similar levels of autnority under coverage of PERA for collective bargaining. The intent of this legislation is to insure that State government remain able to function in the event of a strike of State Employees.

Sec. 2 of the bill is actually redundant in that the terms and conditions of employment, as it relates to collective bargaining, are already defined, and the new section: nor does it include retirement benefits, social security, except as otherwise specifically provided by law., only repeats the on going premiss.

Sec 3 Repeals the Commissioner of Public Works as the negotiator (collective bargaining) for the Division of Marine Transportation, replacing that function with the Division of Labor Relations under the Commissioner of Administration.

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 12, 1981

Honorable Bob Mulcahy
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 60, 61, 62, 63, 114

As requested by your office. the following information is provided pertaining to the bills listed above.

SENATE BILL 60: If this bill becomes law, the State's contributions to PERS and TRS will more than triple. Those systems are the most lucrative in the nation. The necessity of further enhancing retirement benefits that are already the highest in the nation by placing a monetary burden on the State for distribution of public funds to a disproportionately small group of its population is highly questionable. It is suggested that the large benefits that our retirees now enjoy or our existing employees can look forward to are in actuality a form of hedge against inflation.

SENATE BILL 61: If this bill passes, the cost to the State in FY 82 will be $15.8 million, and it will cost our political subdivisions $13.5 million. We project this cost to increase by at least 10 percent for each year thereafter. We question the need to increase benefits that are already the highest in the nation and the disproportionate distribution of public funds.

SENATE BILL 62: The minimal increase in retirement benefits that a small number of employees will receive as a result of credit for unused medical leave is outweighed by the cost to implement and maintain such a program. Only 30 percent of PERS employees will actually retire; and of that number, a small percentage will actually take advantage of such a provision. In most cases, their actual increase in benefits would be minuscule. Cost aside, as a matter of public policy we object to any proposal to credit unused sick leave for retirement purposes. Such a provision will not realistically serve as an inducement to not take sick leave. It would serve to "reward" those employees who are already quite properly not using sick leave unless it is actually necessary. We do not believe it will resolve any problem that may now exist with unwarranted absences.

SENATE BILL 63: The stated purpose of the Public Employees' Retirement System per AS 39.35.010 is ". . . to encourage qualified personnel to enter and remain in the service of the State or a political subdivision or public organization of the State. . ." This bill would offer a means for employees to retire earlier than what is now allowed under the law, which certainly is contrary to the stated purpose of the system. Therefore, we are opposed.

SENATE BILL 114: This bill creates a level of management personnel within the merit system but outside collective bargaining. The result is to lessen the opportunity for conflicts of interest resulting from managers and subordinates belonging to the same bargaining unit. Another advantage is to remove the potential for strikes against the State by managers. The Department supports this bill.

I hope this provides the information you need. If you have further questions, please call me or Judy Crondahl at 465-2277.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
cc: Judy Crondahl, Director
Division of Administrative
Services

Paul B. Arnoldt, Director
Division of Retirement and
Benefits

Sandra Withers, Director
Division of Labor Relations

solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by refer... (§ 2 ch 113 SLA 1972)

Sec. 23.40.210. Agreement. Upon the completion of negotiat... between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it shall remain in effect not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972)

Sec. 23.40.215. Funding. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

Sec. 23.40.230. Assistance by Department of Labor. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as but not limited to, conducting elections and investigating unfair labor practices. (§ 2 ch 113 SLA 1972)

Sec. 23.40.240. Effect on certain units, representatives and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Sec. 23.40.250. Definitions. In §§ 70—260 of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget-making process and negotiate in good faith with respect to wages,

...rs and other terms and conditions of employment, or the nego...tion of an agreement, or negotiation of a question arising under ...agreement and the execution of a written contract incorporating ...agreement reached if requested by either party, but these obliga...ns do not compel either party to agree to a proposal or require ...making of a concession;

(2) "election" means a proceeding conducted by the labor rela...s agency in which the employees in a collective bargaining unit ...t a secret ballot for collective bargaining representatives, or ...any other purpose specified in §§ 70—260 of this chapter;

(3) "labor relations agency" means the state personnel board ...h regard to the state and employees of the state, and means ...Department of Labor with regard to all other public employees ...all other public employers;

(4) "organization" means a labor or employee organization of ...kind in which employees participate and which exists for the ...mary purpose of dealing with employers concerning grievances, ...or disputes, wages, rates of pay, hours of employment and con...ions of employment;

(5) "public employee" means any employee of a public employer, ...ther or not in the classified service of the public employer, ex...elected or appointed officials or teache... or noncertificated em...yees of school districts;

(6) "public employer" means the state or a political subdivision ...the state, including without limitation, a town, city, borough, dis..., board of regents, public and quasi-public corporation, housing ...hority or other authority established by law, and a person ...gnated by the public employer to act in its interest in dealing ...public employees;

(7) "terms and conditions of employment" means the hours of ...ployment, the compensation and fringe benefits, and the em...'s personnel policies affecting the working conditions of the ...yees; but does not mean the general policies describing the ...tion and purposes of a public employer. (§ 2 ch 113 SLA 1972)

Sec. 23.40.260. Short title. Sections 70—260 of this chapter may ...ted as the Public Employment Relations Act. (§ 2 ch 113 SLA ...2)

Chapter 40. Labor Organizations.

Article
1. Local Organizations and Ferry System Employees (§§ 23.4[illegible] 060)
2. Public Employment Relations Act (§§ 23.40.070—23.40.260)

Article 1. Local Organizations and Ferry System Employees.

Section
10. [Repealed]
20. Enforcement of certain contracts only if union registers
30. Definition of labor organization
40. Collective bargaining agreement
45—60. [Repealed]

Sec. 23.40.010. Union contracts with state and political subdivisions.

Repealed by § 5 ch 113 SLA 1972.

Editor's note.—The repealed section derived from § 1, ch. 108, SLA 1959; § 25, ch. 71, SLA 1972.

Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects [illegible] provisions apply."

Legislative committee report on ch. 71, SLA 1972 ([illegible] 383 am H), see 1972 House Journal p. 898.

Sec. 23.40.020. Enforcement of certain contracts only if union registers. No labor contract executed in this state by a labor organization which has no local in this state or which contract is not to be executed by one or more of its locals in this state may be enforced in the courts of this state unless the labor organization has registered with the department and complied with all regulations made by it. (§ 4 ch 108 SLA 1959)

Sec. 23.40.030. Definition of labor organization. For the purposes of this chapter "labor organization" includes an organization constituted wholly or partly to bargain collectively or deal with employers, including the state and its political subdivisions, concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees. (§ 1 ch 108 SLA 1959)

Sec. 23.40.040. Collective bargaining agreement. The commissioner of public works or his authorized representative, in accordance with §§ 10—30 of this chapter, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions, and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of public works

...commissioner of public works may make provision in the collective bargaining agreement for the settlement of labor disputes ...bitration. (§ 1 ch 93 SLA 1962)

Sec. 23.40.045. Records.

...pealed by § 55 ch 69 SLA 1970.

...'s note. — The repealed section derived from § 1, ch. 231, SLA ...

...islative committee report.—For ... ch. 69, SLA 1970 (HB 564), ...0 House Journal Supplement ... 3-7.

...nstitutionality. — The statutes ...rding the Local Autonomy Act, ...regulations relating thereto, ...may indicate a state purpose ...ch invades a field preempted ...Congress. Impermissibly, the act ...res with the full freedom of ...yers to choose a bargaining agent ...the collective bargaining pro... Because of conflict with federal ...bor policy, both actual and po... the act, as amended, is ...fore unconstitutional under the ...acy clause. Tyree v. Edwards, ... F. Supp. 589 (D. Alas. 1968), ...'d sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

The Local Autonomy Act operates in an area preempted by Congress, and is therefore unconstitutional under the supremacy clause of the Constitution of the United States. Tyree v. Edwards, 287 F. Supp. 589 (D. Alas. 1968), aff'd sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

Enforcement enjoined.—All officers, agents, or employees of the State of Alaska are permanently enjoined from enforcing AS 23.40.045—23.40.060, and the regulations promulgated thereunder, or from initiating or prosecuting any proceeding under purported authority of the same. Tyree v. Edwards, 287 F. Supp. 589 (D. Alas. 1968), aff'd sub nom. Alaska v. International Union of Operating Eng'rs, Local 302, 393 U.S. 405, 89 S. Ct. 684, 21 L. Ed. 2d 633 (1969).

Sec. 23.40.050. Local labor organizations.

...pealed by § 55 ch 69 SLA 1970.

...r's note.—The repealed section ...d from § 1, ch. 8, SLA 1967.

Sec. 23.40.052. Interference in chartering prohibited.

...pealed by § 55 ch 69 SLA 1970.

...'s note.—The repealed section ... from § 2, ch. 231, SLA 1968.

Sec. 23.40.054. Civil enforcement.

...pealed by § 55 ch 69 SLA 1970.

...'s note.—The repealed section ... from § 2, ch. 231, SLA 1968.

Sec. 23.40.056. Exemptions.

...pealed by § 55 ch 69 SLA 1970.

...'s note.—The repealed section ... from § 2, ch. 231, SLA 1968.

Sec. 23.40.060. Penalties.

...pealed by § 55 ch 69 SLA 1970.

...'s note. — The repealed section ...ved from § 1, ch. 8, SLA 1967, ... 231, SLA 1968.

Effect of amendment. — The 1973 amendment inserted "of ss. 20 — 40" near the beginning of the section.

Legislative committee report. — For report on ch. 53, SLA 1972 (CSHB 382), see House Journal, pp. 793, 885.

Sec. 23.40.040. Collective bargaining agreement.

This section was not repealed by implication by the enactment of the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Nor is it an exception to that act. — This section cannot be read as an implied exception to the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070 et seq., was intended to incorporate existing collective bargaining agreements rather than exempt them. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Construed in pari materia. — Since this section cannot be treated as an implied exception to the Public Employment Relations Act, AS 23.40.070 et seq., and since the Public Employment Relations Act did not repeal this section by implication, the statutes are construed in pari materia. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section and Public Employment Relations Act can be harmonized. — The Public Employment Relations Act, AS 23.40.070, et seq., and this section can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting the Public Employment Relations Act. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between this section and the Public Employment Relations Act is neither severe nor irreconcilable, particularly in light of AS 23.40.240, which incorporates existing agreements. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of this section and saw no inconsistency in enacting the Public Employment Relations Act, AS 23.40.070 et seq., to provide guidelines and procedures for public employee collective bargaining. The Public Employment Relations Act does nothing to undercut the authorization of collective bargaining under this section. Rather, it gives it additional content. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section was comprehensive when it was enacted. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

But it was further defined by the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070, et seq., contains far more detailed provisions than this section. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Public Employment Relations Act, AS 23.40.070 et seq., applies to employees of the state division of marine transportation. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

If there is no implied exemption for ferry personnel under the Public Employment Relations Act, AS 23.40.070, et seq., it cannot be said that the two acts do not cover the same people. This section is a subset of the broader Public Employment Relations Act coverage and was likely left intact deliberately to designate the commissioner of public works as the state's representative in bargaining with the ferry unions. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Article 2. P

Section
210. Agreement
212. Agreement with the Regents
225. Exemption from Public

Cross reference. — nonapplicability of this noncertificated employees educational attendance area AS 23.40.250

Right of public employe to bargain collectively wa this article. Alaska Pub. Em v. Municipality of Anchorage No. 1328 (File No. 3045), (1976).

This article confers employees the right to o bargain collectively with the and requires public employer collective bargaining unit pursuant to this article. Nor Regional Educ. Attendance A Pub. Serv. Employees, Local Op. No. 1811 (File Nos. 330 P.2d 1292 (1979).

This article allows subdivisions of the state provisions for conduct relations and to substitut provisions. Alaska Pub. Em v. Municipality of Anchorage No. 1328 (File No. 3045), (1976).

Applicability of article is Under the present statute, a this article is the rule, e exception. State v. City of Pet Ct. Op. No. 1175 (File No. 23 263 (1975).

This article is expre applicable to municipalities, and thus are impliedly prohibited fro negotiate with organization employees unless the exc timely enacted. State Petersburg, Sup. Ct. Op. No. 2341), 535 P.2d 263 (1975).

Applying a liberal cons the powers of local governm override the express de policy made a part of this coupled with considerations of the repeal of AS 23.40

SB

123

SUMMARY OF SB 123/HB 332

A. Effect of Bill.

SB 123/HB 332 exempts a refiner of aviation fuel from certain types of civil liability in connection with aviation accidents occurring in Alaska. The bill is designed to exempt a refiner from liability where the refiner no longer has control of the product being supplied. A refiner would continue to be liable for the quality of the fuel supplied where

1) Aviation fuel owned by the refiner was placed directly into an aircraft (for example, all large commercial carriers) or

2) the refiner intentionally or through gross negligence contributed to an accident.

B. Rationale for Bill.

It is well established that Alaska has a disproportionate number of small airplanes. It is equally well established that these same airplanes are involved in a disproportionate number of aviation accidents. Each such accident gives rise to a potential claim of contaminated fuel. Accordingly, companies marketing aviation fuel in Alaska are confronted with an enormous potential liability. The cost of this potential liability may not effectively be passed along to those purchasing aviation fuel in Alaska as the state's total volume is too low. Moreover, it is unfair to saddle

refiners with this liability as the vast majority of aviation fuel is marketed by independent airport dealers over which the refiner has no real control. Without this legislation, refiners may be forced to withdraw from the Alaska market (as one major refiner has recently done) or to adopt a "lower 48" policy of making aviation fuel available only in 10,000 gallon quantities which must be purchased F.O.B. a company facility. That policy would have a substantial effect on all those who benefit from Alaska's present availability of aviation fuel.

Alaska Air Carriers Association

March 5, 1981

Mr. J. H. Howard
Marketing Manager
Chevron USA, Inc.
P.O. Box 1580
Anchorage, Alaska 99510

Dear Mr. Howard:

At the Annual Membership Meeting, February 28, 1981, the membership of the Alaska Air Carriers Association passed a resolution endorsing the concept of limiting the civil liability of aviation fuel refiners, pending further study of Senate Bill Number 123, by the Board of Directors of the AACA.

The AACA represents commercial air carriers in the state of Alaska. Members of AACA rely on aviation fuel refiners to supply sufficient fuel to serve the air transportation needs of Alaskans.

The AACA Board of Directors will be meeting in April to review the proposed legislation.

Sincerely,

Tulinda Deegan
President

TD:BC:kdc

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-9933

decision to appoint
The decision whether to
an ad litem would appear
ge measure on the age of
the nature of the claim
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p. Ct. Op. No. 1308 (File
2d 928 (1976); Veazey v.
Op. No. 1381 (File No.
382 (1977).

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60 P.2d 382 (1977).

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File No. 2631), 560 P.2d

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File No. 2631), 560 P.2d

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8), 554 P.2d 55? 1976).
ur v. Bonjour, Sup. Ct.
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protection of child
ded by private agency.
at the costs of services
e protection of the child
gainst the parents and
y advance such costs to

parties temporarily without funds, subsection (b) of this section suggests that it is contemplated that such services typically are to be performed by a private agency. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Performance of "other services" cannot be compelled. — There is no implied grant of power in subsection (a) or (c) of this section to compel the performance of "other services" by a state agency not wishing to perform them. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

The vague directive of this section that in a private custody dispute the court may order that "services be provided for the protection of the child" does not empower a court to command the aid of the department of health and social services in a private custody dispute. Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Distinctions between AS 47.10.020 and this section. — See Granato v. Occhipinti, Sup. Ct. Op. No. 1962 (File No. 3756), 602 P.2d 442 (1979).

Quoted in Chavre v. Chavre, Sup. Ct. Op. No. 1891 (File No. 3349), 598 P.2d 81 (1979).

Sec. 09.65.135. Limitations on claims arising from skiing. (a) A skier may not recover from a ski area operator for injury resulting from an inherent risk of skiing unless the injury occurred when the ski area operator was not providing the information required by (b) of this section.

(b) A ski area operator shall post trail signs at prominent locations within a ski area which shall include a list of the inherent risks of skiing and the limitation on liability of the ski area operator provided by this section.

(c) In this section

(1) "inherent risks of skiing" means the dangers or conditions which are an integral part of the sport of skiing, including, but not limited to,

(A) changing weather conditions;

(B) variations or steepness in terrain;

(C) snow or ice conditions;

(D) surface or subsurface conditions such as bare spots, forest growth, and rocks;

(E) collisions with lift towers, other structures, and their components unless the skier is on the lift;

(F) collisions with other skiers; and

(G) a skier's failure to ski within the limits of his own ability;

(2) "injury" means a personal injury or property damage or loss;

(3) "skier" means a person in a ski area engaged in the sport of skiing, sliding downhill on snow or ice on skis, a toboggan, a sled, a tube, a ski-bob, or other device for recreation in snow;

(4) "ski area" means all ski slopes, trails and other places under the control of a ski area operator and administered as a single enterprise in the state;

(5) "ski area operator" means the operator of a ski area. (§ 2 ch 80 SLA 1980)

→ SB 123: adds section 140. Here. "Civil Liability of an Aviation Fuel Refiner."

SB

151

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 151 by Bennett

Simple interest (one percent per month), to be paid by utility companies to consumers, on their utility deposits. Interest shall be paid in accordance with regulations adopted by the commission.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

UTILITY DEPOSITS

JUNEAU- Alaska Electric Light&Power

Type of Customer: Residential Service: $20 minimum
Mobile Home Service: $30 minimum
Temporary Service: $30 minimum
Small Commercial Service: $20 minimum
Large Commercial Service: $50 minimum
Manufacturers Service: $500 minimum
Processors Service $500 minimum
Street Light in Yard $20 minimum

Persons with a history of poor credit may be charged 2 months projected electric bill, however this has never been required.
After 2 years of established good credit with the utility, deposits are refunded.
Total deposits (Nov. 80) held by AEL&P $78,655.00

Ketchikan- Ketchikan Public Utilities: Presently paying 6% per annum.

Type of Customers: Residential Service $50 (minimum)
Business Service $100 (minimum)

Business customers are evaluated to determine if a one month projected service should be required; (maximum)
Credit Service evaluates residential consumers, and when necessary requires a one month projected use as the deposit.
Deposits are refunded after one year of satisfactory service.
Total deposits held by Ketchikan Public Utilities- $80,000

FAIRBANKS- Postion paper outlining Golden Valley Electric Assoc. enclosed in individual committee members files.

Anchorage - Anchorage Municipal Light and Power:
Type of Customer: More information coming;
Total Electric deposits $29,000

Alaska State Legislature

Senate

JUNEAU, ALASKA

ANCHORAGE: Anchorage Municipal Light&Power

Type of Customer: Residential $?0 new customer; no deposit customers with good utility credit rating. Customers with poor credit history, 2 months projected service bill.

Commercial Service: $50 without established usage; In the case of a new business with previously established owners, 2 months service calculated by averaging the prior 12 months service charges, will be assesed as the deposit.

Anchorage Water Utility:

Residential: $20

Commercial: $50

Anchorage Telephone and Tolls

Residential: $50 (minimum)

Commercial: 2 months flat rate plus 2 months projected toll rate required as deposit.

All deposits are kept by the Utilities for 24 months, and at that time when customers demonstrate good credit, they are given a refund. No interest is paid on utility deposits.

KODIAK- Kodiak Electric: Presently pays no interest on deposits.

Type of Customers: Residential: $50 minimum
Small Commercial: $100 minimum
Large Commercial: $1,500 for consumers using over 50,000 KVA

Maximum deposit required for persons with a poor credit history is two months projected service. Refunds are given after 2 years of demonstrated reliability. Total deposits held by Kodiak Electric as of Dec 1980- $72,500.

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

SUPPLEMENT TO REGULATION Q *

As amended effective January 15, 1981

SECTION 217.7—MAXIMUM RATES OF INTEREST PAYABLE BY MEMBER BANKS ON TIME AND SAVINGS DEPOSITS

Pursuant to the provisions of Section 19 of the Federal Reserve Act and § 217.3 of this Part, the Board of Governors of the Federal Reserve System hereby prescribes the following maximum rates[1] of interest per annum payable by member banks of the Federal Reserve System on time and savings deposits:

(a) **Time deposits of $100,000 or more.** There is no maximum rate of interest presently prescribed on any time deposit of $100,000 or more.

(b) **Fixed ceiling time deposits of less than $100,000.** Except as provided in paragraphs (a), (d), (e), (f), and (g), no member bank shall pay interest on any time deposit at a rate in excess of the applicable rate under the following schedule:

Maturity	*Maximum per cent*
14 days or more but less than 90 days	5¼
90 days or more but less than 1 year	5¼
1 year or more but less than 2½ years	6
2½ years or more but less than 4 years	6½
4 years or more but less than 6 years	7¼
6 years or more but less than 8 years	7½
8 years or more	7¼

(c) **Saving deposits.** No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit. No member bank shall pay interest at a rate in excess of 5¼ per cent on any savings deposit that is subject to negotiable orders of withdrawal, the issuance of which is authorized by Federal law.

(d) **Governmental unit time deposits of less than $100,000.** Except as provided in paragraphs (a), (f), and (g), no member bank shall pay interest on any time deposit which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof, at a rate in excess of 8 per cent.[2]

(e) **Individual Retirement Account and Keogh (H.R. 10) Plan deposits of less than $100,000.** Except as provided in paragraphs (a) and (g), a member bank may pay interest on any time deposit with a maturity of three years or more that consists of funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh (H.R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401, at a rate not in excess of 8 per cent.[2]

(f) **26-week money market time deposits of less than $100,000.** Except as provided in paragraphs (a), (b) and (d), a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more, with a maturity of 26 weeks at a rate not to exceed the rates set forth below:

Rate established (auction average on a discount basis) for U.S. Treasury bills with maturities of 26 weeks issued on or immediately prior to the date of deposit ("Bill Rate")	*Maximum Per Cent*
7.50 per cent or below	7.75
Above 7.50 per cent	Bill Rate plus one-quarter of one per cent

[1] The limitation on rates of interest payable by member banks of the Federal Reserve System on time and savings deposits, as prescribed herein, are not applicable to any deposit which is payable only at an office of a member bank located outside the States of the United States and the District of Columbia.

[2] The ceiling rate on this category is the highest fixed ceiling rate that may be paid on time deposits under $100,000 by any Federally insured commercial bank, mutual savings bank, or savings and loan association.

JANUARY 1981

* Destroy any previous Supplements.

Rounding rates to the next higher rate is not permitted and interest may not be compounded during the term of this deposit. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit of $10,000 or more with a maturity of 26 weeks which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (IRC 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.[3]

(g) Time deposits of less than $100,000 with maturities of 2½ years or more. Except as provided in paragraphs (a), (b), (d) and (e), a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more that is issued on or after Thursday of every other week at a rate not to exceed the higher of one-quarter of one per cent below the average 2½ year yield for United States Treasury securities as determined and announced by the United States Department of the Treasury immediately prior to such Thursday, or 9.25 per cent. The average 2½ year yield will be rounded by the United States Department of the Treasury to the nearest 5 basis points. Except as provided below, in no event shall the rate of interest paid exceed 11.75 per cent. A member bank may offer this category of time deposit to all depositors. However, a member bank may pay interest on any nonnegotiable time deposit with a maturity of 2½ years or more which consists of funds deposited to the credit of, or in which the entire beneficial interest is held by:

(1) the United States, any State of the United States, or any county, municipality or political subdivision thereof, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, or political subdivision thereof; or

(2) an individual pursuant to an Individual Retirement Account agreement or Keogh (H. R. 10) Plan established pursuant to 26 U.S.C. (I.R.C. 1954) §§ 408, 401,

at a rate not to exceed the ceiling rate payable on the same category of deposit by any Federally insured savings and loan association or mutual savings bank.[4]

(h) Obligations of the parent bank holding company of a member bank. Notwithstanding the above, interest may be paid on a deposit as defined in § 217.1(h) of this Part at a rate not to exceed the following schedule:

Original Maturity or Redemption Period	*Maximum Per Cent*
2½ to 4 years	For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 2½ year variable ceiling time deposits pursuant to the provisions of § 217.7(g) in effect at the time the obligation is issued. For a successive period thereafter, interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 2½ year variable ceiling time deposits established pursuant to the provisions of § 217.7(g) in effect at the time the obligation was issued.

[3] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is 7.75 per cent when the Bill Rate is 7.25 per cent or lower, one-half of one per cent above the Bill Rate when the Bill Rate is above 7.25 per cent but below 8.50 per cent, 9.00 per cent when the Bill Rate is 8.50 per cent or above but below 8.75 per cent, and one-quarter of one per cent above the Bill Rate when the Bill Rate is 8.75 per cent or above.

[4] The ceiling rate of interest payable for this category of deposit by Federally insured savings and loan associations and mutual savings banks is one-quarter of one per cent above the rate that may be paid by member banks.

26 weeks or more but less than 2½ years ($10,000 minimum denomination required)	For an obligation that is not redeemable prior to maturity, interest may be paid at the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For an obligation that is redeemable prior to maturity, the maximum rate of interest that may be paid from the date of issuance until the first date on which the obligation may be redeemed shall not exceed the rate established for 26-week money market time deposits pursuant to the provisions of § 217.7(f) in effect at the time the obligation is issued. For a successive period thereafter interest may be paid during such period until the next date on which the obligation may be redeemed at a rate not to exceed the rate that would be in effect on the first day of such period for 26-week money market time deposits established pursuant to the provisions of § 217.7(f) in effect at the time the obligation was issued.
14 days or more but less than 2½ years (No minimum denomination required)	Interest may be paid at the ceilings established pursuant to the provisions of § 217.7(b) in effect at the time the obligation is issued.
less than 14 days	No interest may be paid.

The Golden Heart City

OFFICE OF THE MAYOR

February 12, 1981

Seantor Don Bennett
Alaska State Senate
Pouch V - State Capitol
Juneau, AK 99811

Dear Don:

This is in reference to the Senate Bill requiring interest be provided on utility deposits. We now pay 8% locally. Without doing any research as to what other utilities are doing, I would prefer local option. However, I agree that interest should be paid.

I will be sending you some information on an engineering research facility for the University of Alaska in a few days.

Thank you for your efforts.

Sincerely,

Ruth E. Burnett
Mayor, City of Fairbanks

REB/mdw

SENATOR
DON BENNETT
P.O. BOX 2801
FAIRBANKS, ALASKA 99707

Senate

LEGISLATIVE ADDRESS
POUCH V - STATE CAPITOL
JUNEAU, ALASKA 99811

February 16, 1981

Duane A. White
Div. Customer Service Manager
P.O. Box 2008
Juneau, Alaska 99803

Dear Mr White;

Thank you for your letter regarding my Senate Bill 151 which I have introduced into the Senate recently. I appreciate your comments.

While I can appreciate the need for a utility to protect itself from potential deadbeats, I think it is equally important that people are entitled to a fair rate of return on their captured funds. In that short term time deposits are currently paying 14% to 15% interest, I see no reason why public charted monopolies should not be required to pay 12%, as the monies which they hold is their insurance against loss. I think the citizen is also entitled to insure against their loss of earning power.

Rest assured that there are several other bills which I will introduce in the future which will, hopefully, insure that utility monopolies are both fair and equitable to the areas they serve.

Thank you again for your views and the information you copied me with.

Best Regards,

Don Bennett

Senator Don Bennett

cc Commissioner Zerbetz

Juneau & Douglas Telephone Company
A Member of Continental Telephone System

2093 Jordan Avenue / P.O. Box 2008
Juneau, Alaska 99803
(907) 789-0280

FEB 10 1981

January 27, 1981

Senator Don Bennett
P. O. Box 2801
Fairbanks, Alaska 99707

Dear Senator Bennett:

Thank you for soliciting our thoughts on your proposed bill which would require interest to be paid on customer utility deposits. The following are those thoughts.

At Juneau and Douglas Telephone Company we require deposits only when a customer is a known credit risk or when he or she cannot prove any sort of established credit history. We try to use good judgement when requiring deposits as we do not desire to offend our customers, nor do we particularly enjoy the administrative effort associated with handling deposits. In all cases, deposits are refunded when the customer has demonstrated reliability.

The idea of requiring the utility to pay interest on deposits is common and in most States it is required. However, it seems to me that it has more political than economic value.

Consider: deposits are used to minimize write-offs of uncollectible bills because such write-offs, being a legitimate business expense, are passed on to all customers as a portion of the monthly rate. Therefore, deposits are used to protect the paying customers from those who fail to pay. Interest paid on deposits is also a legitimate business expense and is passed on to all customers as a portion of the monthly charge. Therefore, the reliable customer ends up paying more for his/her service so that we can pay interest to the high-risk customer. This has never made any sense to me.

Thank you again for your inquiry. For your information I have enclosed a copy of that section of our tariff which covers establishment of credit and deposits.

Sincerely,

Duane A. White
Div. Customer Service Mgr.

DAW:sd

Enclosure

MAR 3 1977

State of Alaska
Public Utilities Commission

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 5

DEPOSITS (continued)

A4 Return of deposits

B1 The utility will refund the deposit in accordance with the following

C1 When an application for telephone service has been cancelled prior to the establishment of service, the deposit will be applied to any charges applicable in accordance with the tariff schedules and the excess portion of the deposit will be returned, and the applicant will be so advised.

C2 When the customer's credit may be otherwise established in accordance with Rule No. 4 and upon the customer's request for return of the deposit.

C3 Upon discontinuance of telephone service, the utility will refund within 60 days the customer's deposit or the balance in excess of unpaid bills for that service, and the customer will be so advised.

C4 After the customer has paid bills for telephone service for 12 consecutive months without having had this service temporarily or permanently discontinued for nonpayment of bills, or the customer has not been delinquent in payment more than once in any 12 consecutive months, the utility will refund the deposit. (L)

(L)

(L) Material formerly shown in revised form on First Revised Sheet No. 27 of this schedule.

Advice Letter No. 78 Effective APR 18 1977

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By [signature] Title PRESIDENT

MAR 3 1977
State of Alaska
Public Utilities Commission

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 5

DEPOSITS

A1 Amount of deposit to establish credit

B1 The amount of deposit required to establish credit for telephone service shall not exceed the amount of the estimated bill for toll and exchange service during two normal billing periods, to be calculated by the utility after consultation with the customer. Whenever a deposit is taken, service connection charges and an advance payment will be collected at the time of application.

A2 Amount of deposit to reestablish credit

B1 The amount of deposit required to reestablish credit shall be equal to twice the average monthly bill for toll and exchange service for the last three months, when available.

A3 Additional deposit

B1 An additional deposit may be requested if the actual billings exceed the original estimates and if the customer has a poor credit standing with the utility due to delinquencies in payments of utility bills. (N) (L) (N) (L)

(L) Material omitted now shown on Second Revised Sheet No. 28 of this schedule.

(continued)

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT (continued)

A2 Reestablishment of credit (continued)

B2 An applicant who previously has been a customer of the utility and during the last twelve months of the prior service has had service temporarily or permanently discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility, and will be required to reestablish credit by making the deposit prescribed in Rule No. 5 before the utility will be obligated to provide service. (C)

(C)

Material omitted now shown in different form on First Revised APUC Sheet No. 25 or withdrawn in its entirety.

Advice Letter No. 27 Effective March 20, 1974

Issued By JUNEAU AND DOUGLAS TELEPHONE COMPANY

By C. N. Morris Title PRESIDENT

JUNEAU AND DOUGLAS TELEPHONE COMPANY

RULE NO. 4

ESTABLISHMENT AND RE-ESTABLISHMENT OF CREDIT

A1 Establishment of credit

Each applicant for telephone service will be required to establish credit, which will be deemed established upon qualifying under any one of the following: (C)

B1 Applicant has been a customer of the utility or any other telephone utility in the State of Alaska in the last two years and during the last twelve consecutive months that service was provided has paid all bills for such service, without having been temporarily or permanently discontinued for nonpayment thereof.

B2 Applicant is the owner of the premises upon which the utility is requested to furnish service, or is the owner of other local real estate; in the case of business service; real estate must be business property.

B3 Applicant furnishes a guarantor satisfactory to the utility to secure payment of bills of applicant for telephone service requested in the application.

B4 Applicant's credit is otherwise established to the satisfaction of the utility. (C)

B5 Applicant makes the deposit prescribed in Rule No. 5. (T)

A2 Reestablishment of credit (L)

B1 A customer whose service has been discontinued for nonpayment of bills will be required to pay any unpaid balance due the utility for the premises for which service is to be restored and may be required to pay a reconnection charge as prescribed in Rule No. 9 under "Restoration - Reconnection Charge" and to reestablish credit by making the deposit prescribed in Rule No. 5, before service is restored. (L)

(L) Material formerly appeared on Original APUC Sheet No. 26 in different form.

(continued)

Customer Security Deposits

GVEA's present minimum deposit schedule is $50 for an owner, $70 for a renter, and $100 for a total electric.

Present APUC regulations call for return of security deposits within 24 months, unless there is documented credit infractions, or interest must be paid on the deposited amount. This was set by the APUC to allow the utilities protection against potential bad debt losses from new customers until satisfactory credit history has been established.

One must keep in mind that electric utilities are in a somewhat unique and precarious position in the business world as they are required to provide electric service to all comers (including known high risks) on a credit basis.

One hundred percent of the utilities business is on a credit basis, with each customer provided energy on credit for at least a 60-day span before service can be terminated for nonpayment. The only protection afforded the utility is the security deposit.

GVEA has had an A-1 Credit policy in effect for over ten years that functions as follows:

1. Each account is reviewed on an annual basis (in March-April).
2. All accounts that have been active for the past twelve months and have no more than one monthly payment infraction are classified A-1 Credit and their security deposit returned.

3. GVEA returned 1465 deposits totaling $58,750.00 in May 1980.

We feel that in this way only the consumer who has not established an acceptable credit record is required to continually post a security deposit; the good-pay customer is relieved of the deposit requirement.

A program which would require the accrual and payment of interest on utility security deposits would impose accounting costs to administer such a program that would more than likely exceed the interest paid, i.e., interest @ 8% on a $50 deposit would only be $4 annually.

Also, such a program would require GVEA, in the majority of cases, to pay interest to those customers who have a history of bad payment and over extension of credit; this would be at the expense of the A-1 Credit customers.

GVEA has never had a past-due-penalty assessment policy on overdue billings chiefly because of a high ratio of administrative cost to revenue received by such a policy. If GVLA is required to implement ~~for~~ interest payment on deposits, the costs of this would have to be covered by additional revenue generated elsewhere. The most likely and justifiable avenue would be a past-due penalty assessment on delinquent accounts.

Our objection is that both the interest and past due penalty policies are very heavily laden with costs of administration that the consumer would come out considerably on the short end of the stick.

It is GVEA's position that the most economical and fairest method is to require new consumers to put security deposits up front until each has demonstrated a pattern of credit integrity.

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce & Economic Development	Bennett	SB 151

Department Position

Division Director	Date	Commissioner	Date
		Carolyn S. Guess	2/23/81

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**

3. Program Effects of Bill:

4. Fiscal Impact: ☐ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments: There is no consensus of the Commission regarding its position on this legislation which involves the controversial issue of requiring utilities to pay interest on deposits. There is agreement, however, that through the promulgation of regulations, the Commission has the authority to effect the intent of the proposed legislation. Because it has not been persuaded or requested to promulgate such regulations, this has not been done to date.

The Commission is in agreement that if utilities are required to pay interest on deposits, the rate of interest should be set by the Commission and adjusted annually, if necessary. This is the practice in a number of states and provides for consideration of changing economic conditions.

In support of this legislation, it is argued the Alaska Municipal Code requires municipal utilities to pay interest on customer deposits (AS 29.48.060); thus AS 42.05 should be made consistent as a matter of policy. In addition, some utilities regulated by the Commission do

(Cont'd) pay interest on deposits. As monthly utility bills increase, especially for electric energy, the deposit required may become very sizeable, potential several hundred dollars. For those more sophisticated utilities employing computerized billing, the expenses associated with interest computation and record keeping are minimal. The administrative cost to the utilities will vary, however, depending on the number of consumers, the location and sophistication of the utility's operation.

In opposition to this legislation, interest paid on deposits is recovered through the ratemaking process and, therefore, ultimately borne by all consumers.

Under the Commission's regulations (3 AAC 48.420) as a condition of receiving service, a utility may require a deposit equal to the estimate of two monthly billings. The utility may not retain that deposit for more than two years providing that in the interim period the utility has not been forced to disconnect the consumer's service for reasons of delinquency and that there has been no more than one delinquent payment in any 12 consecutive months. The proposed legislation could require a utility to pay interest on rather large deposits if the customer has a track record of delinquent payments, therefore requiring responsible utility customers to bear the interest expense of those customers who have been financially irresponsible. It is also argued that the purpose of a deposit is to guarantee to the utility that customer's bill will be paid and does not presume that utilities are in the banking business.

If the Legislature believes an alternative to the proposed legislation is desirable, the Commission through proposed regulations can receive evidence and comments regarding whether payment of interest on deposits should be mandated for all utilities economically regulated by the Commission.

tion to keep its poles, tracks, pipes, or other equipment in a safe and proper condition, it has no right to impose a tax for revenue purposes except such as it is expressly authorized to levy and collect by the legislative power creating it. Town of Seward v. Seward Water & Power Co., 5 Alaska 52 (1914).

Am. Jur., ALR and C.J.S. references.—37 Am. Jur., Municipal Corporations, § 46 et seq.

Motive of council passing or nance as to franchise as affectin lidity thereof, 32 ALR 1525.

Forfeiture of street railway franchise for breach of condition, 34 ALR 1420.

64 C.J.S. Municipal Corporations § 1726.

Sec. 29.48.060. Public utilities rates. The assembly acting for the area outside cities and the council acting for the area within a city may regulate, fix, establish and change, as it considers proper, the rates and charges imposed for utilities services given to the municipality or its inhabitants by a public service association, corporation, or individual not regulated under AS. 42.05 and may regulate and provide what is a reasonable deposit for meters and security for service to be given, provided that interest be paid on the deposit. All rates, charges and regulations shall be reasonable and shall permit a fair and reasonable return on invested capital. (§ 2 ch 118 SLA 1972)

This section was intended to refer, not only to franchises thereafter to be granted, but to franchises then in existence. Alaska Elec. Light & Power Co. v. City of Juneau, 294 F. 864 (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924); Town of Cordova v. Alaska Pub. Util., 9 Alaska 196 (1937).

City may not contract away power to fix rates of utilities.—A city may not contract away its power to fix, and from time to time change, the rates to be charged by private organizations engaged in furnishing public services. Such action is prohibited by this section and by AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080). Femmer v. City of Juneau, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

But may contract as to rates for its own services.—This section and AS 29.10.147 and 29.10.150 (now 29.48.070 and 29.48.080) have no effect upon the power of a city to fix contractually the rates to be charged a user of a municipally owned public utility. Femmer v. City of Juneau, 9 Alaska 315, 97 F.2d 649 (9th Cir. 1938).

Rates may not be irrevocably fixed. —There is not necessarily included in the power of a municipality to provide lights for a city, the power to enter into a binding contract whereby the rates to be charged by a public utility corporation shall be irrevocably fixed. Alaska Elec. Light & Power Co. v. City of Juneau, 294 F. 864, (9th Cir.), cert. denied, 266 U.S. 601, 45 S. Ct. 90, 69 L. Ed. 462 (1924).

All the operator of a public utility is entitled to is a reasonable return on his net capital investment, represented by property actually used and useful in the public service, and then only provided that his operation is efficient and economical. Pichotta v. City of Skagway, 12 Alaska 42, 78 F. Supp. 999 (D. Alas. 1948).

But rates fixed too low are confiscation of property. — Where the rates prescribed are not sufficient to meet operating expenses, there is not merely an incidental diminution in the value of plaintiff's property, such as would be unavoidable upon any exertion of the police power to fix rates which diminished income, but a confiscation in the constitutional sense, and the enforcement of the ordinance should be enjoined, without prejudice, however, to the right of the city to take such further proceedings as it may deem necessary in connection with the amendment of its ordinance.

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Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 166 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertantly excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.

Sec. 42.05.601. Actions to recover penalties; disposition. (a) Actions to recover penalties under this chapter shall be brought by the attorney general in a court of competent jurisdiction.

(b) All penalties recovered under the provisions of this chapter shall be paid to the commission and deposited by it in the general fund of the state. (§ 6 ch 113 SLA 1970)

Sec. 42.05.611. Penalties cumulative. (a) All penalties imposed under this chapter are cumulative and an action for the recovery of a civil penalty is not a bar to any criminal prosecution; a criminal prosecution is not a bar to an action for the recovery of a civil penalty.

(b) Neither a criminal prosecution nor an action to recover a civil penalty is a bar to an enforcement proceeding to require compliance, or to any other remedy provided by this chapter. (§ 6 ch 113 SLA 1970)

Sec. 42.05.621. Joinder of actions. Under the applicable court rules, appeals from orders of the commission, applications for enforcement of commission orders and actions for recovery of a penalty may be joined. The court may in the interests of justice separate the actions. (§ 6 ch 113 SLA 1970)

Article 9. Miscellaneous Provisions.

Section	Section
Eminent domain	Public disclosure of information
Regulation by municipality	Validity of certain certificates
Expenses of investigation or hearing	Utility classes
Application fees	

Repeal of former article. — Section 5, ch. 113, SLA 1970 repealed former Article 9, entitled "General Provisions." The former article consisted of §§ 42.05.630 — 42.05.650 and derived from ch. 199, SLA 1959, ch. 156, SLA 1960, ch. 95, SLA 1963, ch. 74, SLA 1964, and ch. 188, SLA 1965.

Sec. 42.05.631. Eminent domain. A public utility may exercise the power of eminent domain for public utility uses. This section does not authorize the use of a declaration of taking. (§ 6 ch 113 SLA 1970)

SB 151 → 42.05.635

Sec. 42.05.641. Regulation by municipality. The commission's jurisdiction and authority extend to public utilities operating within a city or borough, whether home rule or otherwise. In the event of a conflict between a certificate, order, decision or regulation of the commission and a charter, permit, franchise, ordinance, rule or regulation of such a local governmental entity, the certificate, order, decision or regulation of the commission shall prevail. (§ 6 ch 113 SLA

SB

163

Gary W. Anderson
President

February 23, 1981

Mr. Michael Thill
Senate Committee on Labor
& Commerce
Pouch V
Juneau, Alaska 99811

Re: SB 163

Dear Mr. Thill:

The information you have requested is applicable to a governmental department, which CFAB is not. However, I can make the following statements with regard to SB 163 and the additional lending market that it provides to CFAB.

1. Loans to trappers would likely be small in terms of individual loan amount. I would assume that the total of loans would also be relatively limited. We have no figures indicating the size of the trapping business, the number of individual commercial trappers, nor their average incomes.

2. Commercial trapping does not fall within the definition of commercial fishing or agriculture of the Farm Credit System. CFAB would, therefore, not have a leveraging source for these loans.

3. So long as demand for loans was small (below $500,000) CFAB could handle them without using the Farm Credit System. However, if the portfolio of loans to commercial trappers were to exceed that level, the absence of leveraging ability would negatively impact CFAB's overall lending potential.

4. While CFAB would make every effort to provide a viable loan package to commercial trappers, the individuals would have to meet CFAB's credit standards.

Mike, without detailed information on trapping and the possible loan demands, it is impossible to make a more definitive reply to the legislation. If it fills a definite need and CFAB can provide the service while maintaining the credit risk in its portfolio within established parameters, we would be glad to provide the loans.

Sincerely,

Gary W. Anderson
President

sd

the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. (§ 3 ch 159 SLA 1978)

Sec. 44.81.180. Bonds legal investments for fiduciaries. The bonds of the bank are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the bank are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 3 ch 159 SLA 1978)

Sec. 44.81.190. Conflicts of interest. No member of the board of directors may vote on a transaction of the bank under this chapter if he is a party to the transaction. (§ 3 ch 159 SLA 1978)

Sec. 44.81.200. Reports and publications. The board of directors shall publish an annual report to the bank's shareholders. The report shall be made available to the public and shall include financial statements audited by independent outside auditors, a statement of the amount of money received by the bank from each source during the period covered, a statement of the bank's investments, a description of the bank's investment activity during the period covered by the report, an analysis of economic and other effects of investment decisions on the state's commercial fishing and agriculture industries, and any other information the board believes would be of interest to the governor, the legislature and the public. The board may also publish such other reports as it considers desirable to carry out its purposes. (§ 3 ch 159 SLA 1978)

Sec. 44.81.210. Powers of the bank. (a) The bank may

(1) make variable rate or fixed rate loans to individuals who are residents and who are engaged in commercial agriculture or fishing, including harvesters, processors, suppliers and marketers, or to corporations, partnerships or joint ventures engaged in commercial agriculture or fishing, the majority interest of which is beneficially

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ike and alter bylaws necessary or desirable to carry out its
e functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of this chapter;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this section in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;

owned by residents of the state and a majority of the owners of which are residents of the state, if the recipient of the loan is a member of the bank; however, the bank may make a loan under this paragraph to a corporation, partnership, or joint venture for the purchase of a new or existing fishing vessel or for the repair or renovation of an existing fishing vessel, the primary purpose of which is to commercially harvest fishery resources, only if the corporation, partnership, or joint venture is wholly owned and controlled by residents of the state and if the recipient of the loan is a member of the bank.

(2) make and alter bylaws necessary or desirable to carry out its corporate functions;

(3) establish amortization plans for repayment of loans, which may include extensions for poor fishing or farming seasons;

(4) enter into agreements with regional institutions of the federal farm credit system, private lending institutions, and other state agencies or agencies of the federal government, to carry out the purposes of this chapter;

(5) adopt, alter, and use a corporate seal;

(6) sue and be sued in the name of the bank;

(7) issue bonds to carry out any of its corporate purposes and powers;

(8) sell, lease as lessor or lessee, exchange, donate, convey or encumber in any manner, by mortgage or by creation of any other security interest, real or personal property owned by it, or in which it has an interest, when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(9) incur secondary liability by guaranty or endorsement of the obligations of another corporation or legal entity when, in the judgment of the board of directors, the action is in furtherance of its corporate purposes;

(10) make loans as provided in (1) of this section in participation with financial institutions, and establish and regulate the terms of the loans;

(11) make contracts and execute instruments necessary or convenient in the exercise of its corporate powers;

(12) acquire by purchase, lease, bequest, devise, gift, the satisfaction of debts, or the foreclosure of mortgages, and hold, maintain, use, operate, and convey real or personal property;

(13) borrow money and issue secured and unsecured evidence of indebtedness for a corporate purpose or to fund, refund, pay, or discharge outstanding obligations, and enter agreements and contracts concerning these obligations;

(14) secure the payment of its obligations by pledge or mortgage or other lien on its contracts, revenues, income, or property;

(15) appoint officers, employees, trustees for certificate holders, and agents, and prescribe their powers and duties;

(16) provide technical services to members of the bank; for the purposes of this paragraph, "technical services" includes services that will enhance the ability of the member to obtain financial assistance from the bank;

(17) make loans, as provided in (1) of this section, secured by liens subordinate to valid first liens and security agreements granted to a private lending institution;

(18) participate with state departments and agencies in formulating policy and in planning for the development of commercial fishing and agriculture in the state;

(19) do what is necessary or desirable to carry out the corporate purposes and powers expressed or implied in this chapter;

(20) make loans to individual commercial fishermen for limited entry permits; a loan under this paragraph may be made only to an individual commercial fisherman who has been a state resident for a continuous period of five years immediately preceding the date of application for the loan and who has had a crewmember or commercial fishing license under AS 16.05.480 or a permit under AS 16.43 for any one of the past five years, and who has actively participated in the fishery during that period; loans made under this paragraph are subject to the provisions of AS 44.81.230;

(21) indemnify a director, officer or employee of the bank and his heirs, executors and administrators against all liabilities and related expenses including, but not limited to, court costs and attorney fees, judgments, and the cost of reasonable settlements, incurred by him in connection with or arising out of an action or proceeding brought against him because of an act or omission in the performance of his official duties as director, officer or employee of the bank regardless of whether he is a director, officer or employee at the time the expenses or liabilities are incurred.

(b) The provisions of (a)(21) of this section do not authorize the bank to indemnify a director, officer or employee of the bank who is adjudged liable for negligence or misconduct in the performance of his official duties. (§ 3 ch 159 SLA 1978; am § 4 ch 53 SLA 1979; am §§ 7—10 ch 51 SLA 1980)

Effect of amendments. — The 1979 amendment added paragraph (20).

The 1980 amendments in paragraph (1) of subsection (a), inserted "suppliers" following "harvesters, processors" and deleted "primarily" following "or joint ventures" near the beginning and substituted "member" for "shareholder" near the middle and near the end. The amendment also substituted "members of the bank" for "shareholders" and "member" for "shareholder" in paragraph (16) of subsection (a), added paragraph (21) of subsection (a), and added subsection (b).

Sec. 44.81.220. Transition. Upon the repurchase of all the nonvoting, preferred shares initially issued by the bank and purchased by agencies of the state, the provisions of this chapter lapse and the bank may proceed to operate as a private cooperative corporation under

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166

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/9/81 Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 166

amending qualifications of an electric utility for power production cos assistance payable by the Alaska Power Authority

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

[✓] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same [ ] new

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Kahlen Kamp

[illegible]

Zirkle

Bob Wilken

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Wilken
CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

COMMITTEE MINUTES: 2 March 1981

Senator Mulcahy opened the Committee meeting and called for testimony on CSSB 50. Testimony was provided by Art Zillig from the Department of Labor, and he explained that a further review of the proposed bill indicated that two changes were necessary. On page 4, delete the word "regular" (line21), and on page 5, line 12, include (a) after the statute. The bill was then passed from committee.

The next bill addressed was SB 151, which included discussions by Sen. Rodey (pertaining to the cost of figuring interest), Sen Ziegler about the philosophical issue of the Legislature even addressing required interest to be paid by public utilities, and Sen. Hohman questioning the purpose of having this legislation. SB 151 will be discussed at a later committee meeting.

SB 160 was the final bill to be discussed. Sen. Mulcahy gave a summary of the bill, explaining that the community of Bettles had been inadvertantly excluded from the benefit of power production cost assistance and hence a language change was necessary to include them within the original intent of the legislation. The bill was moved without further objections.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SB 166- Sackett

"An act ammending the eligibility qualifications of an electric utility for power production cost assistance payable by the APA; ED

The present statute stipulates that in order to qualify for power production cost assistance through APA the utility must have at least 15% of its total energy sales to residential units.

Given the conditions of many rural areas, (few residential dwellings) it is often possible for one or two commercial consumers to account for 90% of the total energy sales, thus making the previous stipulation impractical and inequitable. Therefore the ammended language should read at least 15% of the units served, thus enabling rural utilities to apply for power production cost assistance.

BETTLES LIGHT & POWER, INC.

BETTLES, ALASKA 99726 • (907) 692-5212

Senator John Sacket
Box 65
Galena, Alaska 99741

8-30-80

Dear John:

I would like to bring to your attention certain inequities which survived to become law as part of HES CSSB (Finance).

This bill established provisions for Power Production Cost Assistance to be administered by the Alaska Power Authority. The apparent intent was to help alliviate the high cost of Electrical Energy to Residential Consumers through state subsidy.

However, one of the two major stipulations for Utility elegibility states that: "The utility must have sold at least 15% of its total energy sales for residential use..."

This stipulation may be practical for Utilities serving large cities where a huge portion of the revenues would come from Residential sales but it does not take into account conditions in rural areas where Residential sales by percent of revenues may not come near equally 15% of many Utilities gross revenues.

It only takes one Air Taxi or Trading Post (i.e. one commercial consumer) in a Bush Village to more than equal 85-90% of Total energy sales.

I believe the law should be altered to read: ...The Utility must have at least 15% of its total consumers classified as Residential Consumers to qualify under this program.

If this alteration were made, the intent of the bill would be kept and many bush utilities would be eligible rather than exempt as is now the case.

At this time Bettles Light & Power is not eligible to participate in this program and our residential consumers who are paying some of the highest Electrical rates in the State are not subject to relief.

I urge you to consider the ramifications of the bill as it is now written and work to alter its provisions so that all resident consumers may benefit.

Sincerely,

Daryl G. Morris

cc: "Pappy" H. Moss, Representative
Glenn Hackney, Senator
Carolyn Guess, Commissioner, APUC

DGM/kt

TO: Terry McGuire
Director of Finance

DATE: January 12, 1981

FROM: Lynn Dorrough
Economist

SUBJECT: Power Production Cost Assistance Program

As you requested, the following is a summary of possible modifications to the Power Production Assistance Program which were discussed in a meeting on January 6, 1981. State personnel present included Carolyn Guess, APUC Commissioner; John Farleigh, APUC Director; Terry McGuire, APA Finance Director; and Lynn Dorrough, APA Economist. David Hutchens, Executive Director of Alaska Rural Electric Cooperative Association also attended the meeting. The possible modifications were discussed with the intent of improving the effectiveness of the program, while decreasing administrative demands on the participating utilities, the APUC, and the APA.

1. In the calculation of Adjusted Power Production Cost, as described in AS 44.56.162(c), it was suggested several modifications should be made. The amount of actual subsidy per KWH is determined by subtracting the adjusted power production costs from the actual power production costs. The existing adjusted power production cost has the effect of escalating the relative percentage subsidy paid in situations where the actual power production costs would exceed 40¢ per KWH. The proposed change has a tempering effect on the subsidy and an incentive to improve efficiency. It is suggested that AS 44.56.162 (c) be revised as follows:

   (c) Power production cost assistance shall be paid to an eligible electric utility if the actual power production costs per kwh sold by the utility exceed its adjusted power production costs, as determined by the Commission. The adjusted power production costs of an electric utility are:

   (1) 15 percent of the portion of the actual power production costs which does not exceed 40 cents per kilowatt hour; plus

   (2) 100% of the portion of the actual power production costs which exceeds 40¢/kwh, plus

   (3) the base escalator; the base escalator is 7.65 cents per kilowatt hour adjusted annually by a percentage equal to the percentage change in the Anchorage consumer price index for the year. The consumer price index for all urban consumers for Anchorage is to be obtained from the

U.S. Bureau of Labor Statistics for the first month of each fiscal year. The change in the production cost escalator is to be determined and implemented within 60 days of the availability of the new consumer price information.

2. In the determination of utility eligibility to participate in the Power Production Cost Assistance Program, it was suggested that the requirement that a utility have sold at least 15% of the total electricity sold in the year prior to initial eligibility to residential consumers be eliminated. The justification for this change is that in areas of high electrical cost the purpose of the program is to provide rate relief to the residential consumer. The allocation of other electrical uses in the areas is not directly related to the purpose of this program. Therefore, AS 44.56.162(e)(2) should be eliminated.

3. To determine monthly payments due to the utility, for reimbursement of the assistance provided to participants in this program, certain monthly information is required to be sent to the Alaska Power Authority by the participating utilities. It was suggested that some of the required information is not necessary for the APA to determine the amount of payment due, or forecast future demand on the program. These requirements are listed in AS 44.56.162(g). The ones suggested for elimination pertain to kilowatt hours generated during the preceding month and power production cost per kilowatt hour generated (number 4 & 6). The remaining five monthly reporting requirements would be renumbered in the correct sequence.

4. It was suggested that the section of the legislation related to notifying the participants in the program be modified to allow eligible utilities more flexibility in the placement of notification on billings sent to program participants. The section suggested for changes is AS 44.56.162(1) and the following is the possible new wording:

(1) If an electric utility receives a payment under this section, the utility shall furnish a notice to its electric service customers eligible under this program for each period for which the payment is received. The following notice is the suggested format, any deviation from it must be approved by the Alaska Power Authority and still must be consistent in content with the suggested format:

"Notice to Customer"

For the current billing period the utility will be paid under the State of Alaska's Power Production Assistance Program (AS 44.56.162) to assist the utility and its customers in reducing the high cost of generation of electric energy.

Your total electrical service cost	$
Less state assistance	$
Your charge	$

5. It was suggested that the existing eligibility definitions for participants, listed under AS 44.56.162(k) be revised to more specifically describe eligible participants. The following is the suggested new wording:

(k)(3) "Residential" means any consumer that qualifies to receive a residential tariff for regulated utilities and unregulated utilites (in such cases where unregulated utilities do not have a residential tariff, any customer with a primarily residential use is eligible if the customer account name is not the business associated with the residential units).

(4) "Local community facilities" means all water and sewer facilities, public outdoor lighting, harbor facilities, and those other community buildings whose operations are not paid for by the state, the federal government, or private commercial interests.

cc: Carolyn Guess
John Farleigh
David Hutchens

Also, the automatic repealer should be changed to a sunset review procedure.

DH

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
APUC Commerce & Econ. Development	Sackett	SB No. 166

Department Position

Division Director	Date	Commissioner	Date
		Carolyn S. Guess	2/24/81

GOVERNOR'S OFFICE USE

Comments

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill

3. Program Effects of Bill

4. Fiscal Impact: ☐ None ☐ Fiscal Note Attached

5. Amendments Proposed:

6. Comments: The intent of this legislation is to allow presently ineligible utilities to become eligible for Power Production Assistance. It is the Commission's recollection that House Bill #758 of the 1980 Legislature which subsequently was amended and included in Chapter 83, SLA 1980 placed a restriction on eligible utilities because the original draft of the legislation allowed all consumer classes to participate in the program. It apparently was the intent of the drafters to exclude utilities that primarily serve commercial users. With the subsequent changes and resultant law, this exclusion was not eliminated when the legislature decided to limit the eligibility of customer classes to residential, charitable and local facilities.

The Commission is aware that under present law Bettles Light & Power, Inc., is ineligible for assistance for its qualifying customers because over 80 percent of its sales are to the FAA and approximately five percent to small commercial users. It thereby fails to meet the threshold that 15 percent of the total energy be sold to residential consumers. There may be other utilities in similar circumstances of which the Commission is unaware. This legislation would remedy what is perceived to be an inequity in the original legislation.

(D) overhead line expenses;

(E) underground line expenses;

(F) transmission of electricity by others;

(G) miscellaneous transmission expenses;

(H) rents; and

(I) maintenance costs for facilities associated with (A) — (E) of this paragraph; and

(5) fixed costs relating to transmission, consisting of

(A) depreciation of transmission lines and equipment;

(B) taxes on transmission lines and equipment;

(C) insurance on or attributable to transmission lines and equipment; and

(D) interest on debt incurred for transmission lines and equipment.

(c) Power production cost assistance shall be paid to an eligible electric utility if the actual power production costs of the utility exceed its adjusted power production costs, as determined annually by the commission. The adjusted power production costs of an electric utility are

(1) 15 percent of the portion of the actual power production costs which does not exceed 40 cents per kilowatt hour; plus

(2) the base power production cost escalator; the base power production cost escalator is 7.65 cents per kilowatt hour adjusted annually by a percentage equal to the percentage of change in the Anchorage consumer price index for the year.

(d) An eligible electric utility may include as part of its revenue requirement for the purpose of setting rates charged for residential service, local community facilities service, and service to charitable organizations only the adjusted power production cost per kilowatt-hour sold. However, the utility's approved tariff shall show rates based on the actual cost of providing electric utility service and the state assistance derived from the power production cost assistance program under this section.

(e) The power production cost assistance program shall be administered by the authority based on a determination by the commission of adjusted power production cost of each electric utility eligible for power production cost assistance. An electric utility is eligible for power production cost assistance if

(1) the actual power production costs of the utility exceed the adjusted power production costs, as determined by the commission under (c) of this section;

(2) at least 15 percent of the total energy sold by an electric utility during the calendar year preceding the year in which power production cost assistance may be claimed was for residential use.

(f) The adjusted power production cost shall be calculated annually in the manner prescribed by (c) of this section and shall be based on the actual power production cost filed with the commission by each eligible

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commission within 30 days of receipt of the report by the authority for review before payment. When a report is submitted to the commission for review under this section, payment shall be made by the authority within 30 days after submission. If appropriations are insufficient for payment in full, the amount paid to each electric utility is reduced on a pro-rata basis.

(i) If an electric utility receives a payment under this section, the utility shall furnish the following notice to its electric service customers eligible under this program for each period for which the payment is received:

NOTICE TO CUSTOMER

For the current billing period the utility has been paid under the State of Alaska's power production cost assistance program (AS 44.83.162) to assist the utility and its customers in reducing the high cost of generation of electric energy.

Your total electrical service cost	$
Less state assistance	$
Your charge	$

(j) For the purpose of this section,

(1) the terms used in (b) (1) — (4) of this section are defined as those items are defined in a recognized system of utility accounts designated by the commission;

(2) actual power production costs are the expenses and costs prescribed in this subsection less any other power production cost assistance provided to the electric utility.

(k) In this section,

(1) "charitable organization" means an organization, not organized for pecuniary profit, which is operated for the relief of poverty, distress, or other condition of public concern in the state; the term includes, but is not limited to, a church or religious organization;

(2) "commission" means the Alaska Public Utilities Commission;

(3) "local community facilities" means water and sewer facilities, public outdoor lighting, and community buildings whose operations are not paid for by the state, the federal government, or private commercial interests. (§ 42 ch 83 SLA 1980)

Section repealed effective July 1, 1985. — Section 51, ch. 83, SLA 1980, repeals this section, effective July 1, 1985.

Sec. 44.83.164. Assistance to utilities not regulated by Public Utilities Commission [Repealed effective July 1, 1985]. (a) A utility which is exempt from regulation under AS 42.05.711 may receive power production cost assistance under AS 44.83.162 without becoming subject to the jurisdiction of the Alaska Public Utilities Commission if the utility is otherwise eligible for assistance and if the utility

(1) files with the commission the audited financial data necessary to determine the adjusted power production cost in the form prescribed in a recognized system of utility accounts;

(2) makes the reports required in AS 44.83.162(g) required of an electric utility with a rate schedule approved by the commission within the time and in the form the Alaska Power Authority designates;

(3) sets rates charged for residential services, local community services, and for services to charitable organizations, by including as part of its revenue requirements for these services only the adjusted power production cost per kilowatt-hour sold;

(4) allows audits which the commission determines are necessary to insure compliance with this section; and

(5) furnishes its electric service customers eligible under this program the "Notice to Customer" specified in AS 44.83.162(i).

(b) The provisions of AS 44.83.162 relating to determination of the amount of power production cost assistance and payment of the assistance apply to assistance under this section. (§ 42 ch 83 SLA 1980)

Section repealed effective July 1, repeals this section, effective July 1, 1985
1985. — Section 51, ch. 83, SLA 1980.

Article 5. Power Project Fund.

Section
170. Power project fund

Sec. 44.83.170. Power project fund. (a) There is established as a separate fund the power project fund which shall be distinct from any other money or funds of the authority, and which includes only money appropriated by the legislature.

(b) The authority may make loans from the power project fund

(1) to electric utilities, regional electric authorities, municipalities, cities, boroughs, regional and village corporations, village councils, and nonprofit marketing cooperatives to pay the costs of

(A) reconnaissance studies, feasibility studies, license and permit applications, preconstruction engineering, and design of power projects;

(B) constructing, equipping, modifying, improving, and expanding small-scale power production facilities, conservation facilities, bulk fuel storage facilities, and transmission and distribution facilities, including energy production, transmission and distribution, and waste energy conservation facilities which depend on fossil fuel, wind power, tidal, geothermal, biomass, hydroelectric, solar or other non-nuclear energy sources; and

(C) reconnaissance studies, preconstruction engineering, design, construction, equipping, modification, and expansion of potable water supply including surface storage and groundwater sources and

firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes

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law at 12:01 a.m. on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.130.—In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. Mahan v. Sparks, 10 Alaska 292 (1942).

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S. 166 Title: An Act amending the eligibility qualification of an electric utility for power production cost assistance payable by the Alaska Power Authority; and providing for an effective date. Date February 13, 1981

Requested by Sackett

II. FISCAL DETAIL

Agency Affected Alaska Power Authority

Program Category Affected

BRU, Program, or Subprogram(s) Affected Alaska Power Authority

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

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.		40,000	100,000			
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		40,000	100,000			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This includes funding for the remainder of FY 1981. It assumes that even though the change is retroactive to January 1, 1981, no retroactive payments would have to be made to utilities currently not participating. Utility eligibility is determined for utilities by the Alaska Public Utilities Commission and payments would only be due from date of APUC certification for participation.

IV. DATE February 13, 1981 PREPARED BY Lynn Dorrough, Economist

AGENCY Alaska Power Authority

PHONE 277-7641

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

SB

172

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 172

Filing of commercial documents; reflecting changes in filing procedures. Director of the Division of Technical Services (DNR) is responsible for the filing system for commercial documents, the place where commercial documents are to be filed, and he is designated the chief filing officer of the State.

The bill gives the director authority to prescribe uniform fees, and forms for filing documents.

1. A copy of a security agreement may be filed as a financing statement if both parties sign the copies.

2. Prescribes rules on the effect of a continuation statement filed with the district recorder before July 1, 1981.

3. Makes it unneccessary to file a continuation statement for a security agreement made by a common carrier if the financing statement contains the citation to AS45.09.302

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 172 Related History:

SB 172 transfers the responsibility for the filing system, the place where commercial documents are to be filed, and designates the director of the Division of technical services as the chief filing officer of the State.

Several years ago, commercial documents were filed with the court system, however after the consolidation of the superior court and the trial court, Executive order 40 transferred the responsibility for the filing of commercial documents to the Department of Administration. The Department of Administration felt it would be difficult for them to handle, and executive order 47 required a further transfer to DNR as they had just received a large computer. There were problems with the new computer, and temporarily the Department of Commerce was designated the responsibility for commercial filings. In June of 1980, DNR's computer was functioning correctly and the Department of Commerce transferred the responsibility (per EO47) back to the Commissioner of DNR. SB 172 further transfers the commercial document filing to the Division of technical Services, within the Department of Natural Resources.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SB 172

Section by section analysis:

Sec. 1: Establishes the filing of a deed of trust or mortgage with the Division of Technical Services, Dept. of Natural Resources. If the statement contains a citation to this section, it remains effective until terminated without the need for filing a continuation statement. Further provides that assignments, ammendments, and partial releases of the instrument may also be filed with the Dir. of the Div. of Technical Services, DNR.

Sec. 2: Addresses the proper place to file security interests if the collateral is farming equiptment, farm products, accounts, contract rights, or intangibles resulting from the sale of farm products by a farmer. Security interests shall be filed in the office of the recorder in the debtors district; if the debtor is not a resident, then in the recorders office in the district where the goods are kept; when the collateral is crops, in the office of the recorder in the district where the crops are to be grown.

Sec. 3: Specifies that all commercial documents with the exception of security interests in Sec. 2 are to be filed with the Div of Tech Services, DNR

Sec 4: Technical ammendment addressing the signing of financing statements and providing that the copies be signed by both parties.

Sec.5: Director of the Div. of Technical Services shall prescribe forms and filing fees for filing commercial documents.

Sec 6: A financing Statement or continuation statement for consumer goods filed before July 1, 1981 in the district recorders office is effective until it lapses. Statements filed after 30 June 1981 take effect only if it is filed with the Div of Tech Services, DNR.

Sec 7: Technical ammendment relating to termination statements. If the secured party fails to send the termination statement within 10 days, he is liable to the debtor for $100, and for any loss incurred

to the debtor by this failure.

Sec 8: Fee for filing and indexing a termination statement is determined by the Dir, Div of Tech Services, DNR.

Sec 9: Technical ammendment for the filing of financing statements.

Sec 10: Technical ammendment addressing the filing of a separate written statement of assignment.

Sec 11: Technical ammendment addressing the release of collateral.

Sec 12: Technical ammendment addressing requests about financing statements presently on file.

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Natural Resources	Rules Committee by request of Governor	SB 172

Department Position

Favor

Division Director	Date	Commissioner	Date
Claudi M. Hoffman	2/18/81	Robert E. LeResche	

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
SB 77	NONE
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
not documented (verbal) lending & financial institutions	unknown

3. Program Effects of Bill

simplifies statutes for consumer

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

NONE

6. Comments:

Section AS 45.09.402(a) We question whether or not the first sentence means all debtors and all secured parties are required to sign with all original signatures. Originally this was our intent to clean up the existing statutory language.

01-009(Rev. 9/80)

FISCAL ANALYSIS

DEPARTMENT	SPONSOR (PRINCIPAL	BILL NO.
Natural Resources	Rules Committee by request of the Governor	SB 172

DIVISION POSITION	CO-SPONSORS OR COMMITTEE SPONSORS	DATE LAST AMENDED
Favor		

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE
Claud M. Hoffman	2/3/81	Robert E. LeResche	

FISCAL EFFECTS OF BILL

(1) CHANGES IN PERSONNEL

NONE

(2) CHANGES IN GOVERNOR'S PROPOSED BUDGET

Request Centralized UCC system be program receipts instead of General Fund appropriation.

(3) CAN COSTS BE ABSORBED

YES

(4) REVENUE/EXPENDITURE CLASSIFICATION AND FUND — SOURCE (GENERAL FUND/BUDGET, FEDERAL FUNDS, BONDS, SPECIAL APPROPRIATIONS)

General Fund

COMMENTS

Would like to work with Code Revision Commission to resolve differences between this proposed legislation and SB 77.

(e) The requirements of AS 45.09.401(a)(1) and (2), 45.09.403(b), (c), and (e), and 45.09.407 do not apply to a security interest in personal property of any description created by a deed of trust or mortgage made by a corporation primarily engaged in the business of a common carrier by rail, the furnishing of telephone or telegraph service, the transmission of oil, gas or petroleum products by pipeline, or the production, transmission or distribution of electricity, steam, gas, or water, but this security interest may be perfected under this chapter by filing the deed of trust or mortgage in the office of the commissioner of the Department of Natural Resources. When filed, the instrument remains effective until terminated, without the need for filing a continuation statement. Assignments and releases of the instrument may also be filed in the office of the commissioner of the Department of Natural Resources. This commissioner is a filing officer for the foregoing purposes, and the uniform fee for filing, indexing and furnishing filing data under this subsection is $10. (§ 9.302 ch 114 SLA 1962; am § 1 ch 65 SLA 1967; am § 1 ch 47 SLA 1976; am Executive Order No. 40 § 4 (1979); am Executive Order No. 47 § 4 (1980))

Effect of amendments. — The 1976 amendment added the language beginning "unless the property is inventory" to the end of paragraph (2) of subsection (c).

Section 4, Executive Order No. 40 (1979) substituted "Department of Commerce and Economic Development" for "Department of Administration" at the end of the first and third sentences of subsection (e).

Section 4, Executive Order No. 47 (1980), substituted "AS 45.09.401(a)(1) and (2), 45.09.403(b), (c) and (e), and 45.09.407" for "secs. 768(a)(1) and (2), 772(b), (c), and (e) and 780 of this chapter" following "The requirements of" near the beginning of subsection (e), substituted "this chapter" for "secs. 690—794 of this chapter" following "be perfected under" near the end of the first sentence in subsection (e), and substituted "Natural Resources" for "Commerce and Economic Development" following "Department of" at the end of the first and third sentences in subsection (e).

Editor's note. — Section 1, Executive Order No. 40 (1979) provides: "Findings. As governor, I find that it would be in the best interests of efficient administration to transfer the recording function and the Uniform Commercial Code filing function from the Department of Administration to the Department of Commerce and Economic Development.

This section requires filing to perfect a conditional sale agreement. Blumenstein v. Phillips Ins. Center, Inc., Sup. Ct. Op. No. 748 (File No. 1253), 490 P.2d 1213 (1971).

Surety's right to earned progress payments does not qualify as an interest in personal property subject to the filing provisions of the code since the surety has the right to complete the job it has bonded and apply any earned funds against its costs. This does not secure the payment or performance of an obligation as a "security interest" as that term is defined in AS 45.01.201 (37). Alaska State Bank v. General Ins. Co. of America, Sup. Ct. Op. No. 1564 (File Nos. 2638, 2713), 579 P.2d 1362 (1978).

Quoted in Stanley v. Fabricators, Inc., Sup. Ct. Op. No. 582 (File No. 1061), 459 P.2d 467 (1969).

Cited in Decker v. Aurora Motors, Inc., Sup. Ct. Op. No. 314 (File No. 593), 409 P.2d 603 (1966); C.Y. Inc. v. Brown, Sup. Ct. Op. No. 1569 (File No. 2781), 574 P.2d 1275 (1978); State, Div. of Agriculture v. Fowler, Sup. Ct. Op. No. 2085 (File No. 4114), 611 P.2d 58 (1980).

ALR references. — What constitutes "security interest" as to which financing statement must be filed under Uniform Commercial Code § 9-302, 11 ALR3d 1231.

Determination of purchase price of farm equipment for purposes of UCC § 9-302(1)(c) excusing filing of financing statement, 85 ALR3d 1037.

Sec. 45.09.401. Place of filing; erroneous filing; removal of collateral. (a) The proper place to file, in order to perfect a security interest, is as follows:

(1) if the collateral is consumer goods, or is equipment used in farming operations or farm products, or accounts, contract rights, or general intangibles arising from or relating to the sale of farm products by a farmer, then in the office of the recorder in the recording district of the debtor's residence or, if the debtor is not a resident of the state, then in the office of the recorder in the recording district where the goods are kept, and in addition when the collateral is crops, in the office of the recorder in the recording district where the land on which the crops are growing or to be grown is located;

(2) if the collateral is goods which at the time the security interest attaches are or are to become fixtures, then in the office where a mortgage on the real estate concerned would be filed or recorded;

(3) in all other cases, in the office of the Department of Natural Resources.

(b) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to collateral as to which the filing complied with the requirements of AS 45.09.101 — 45.09.507, and is also effective with regard to collateral covered by the financing statement against a person who has knowledge of the contents of the financing statement.

(c) A filing which is made in the proper place in the state continues to be effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is later changed.

(d) If collateral is brought into the state from another jurisdiction, the rules stated in AS 45.09.103 determine whether filing is necessary in this state. (§ 9.401 ch 114 SLA 1962; am Executive Order No. 40 § 5 (1979); am Executive Order No. 47 § 5 (1980))

Effect of amendment. — Section 5, Executive Order No. 40 (1979) substituted "Department of Commerce and Economic Development" for "Department of Administration" at the end of paragraph (3) of subsection (a).

Section 5, Executive Order No. 47 (1980), substituted "Natural Resources" for "Commerce and Economic Development" following "Department of" at the end of paragraph (3) of subsection (a).

Sec. 45.09.402. Formal requisites of financing statement; amendments. (a) A financing statement is sufficient if it is signed by the debtor and the secured party, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor, and contains a statement indicating the types or describing the items of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. If the financing statement

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covers crops growing or to be grown or goods which are or are to become fixtures, the statement must also contain a description of the real estate concerned. A copy of the security agreement is sufficient as a financing statement if it contains the information required in this subsection and is signed by both parties.

(b) A financing statement which otherwise complies with (a) of this section is sufficient, although it is signed only by the secured party, if it is filed to perfect a security interest in

(1) collateral already subject to a security interest in another jurisdiction when it is brought into this state; the financing statement must state that the collateral was brought into this state under these circumstances;

(2) proceeds under AS 45.09.306 if the security interest in the original collateral was perfected; the financing statement must describe the original collateral.

(c) A form substantially as follows is sufficient to comply with (a) of this section:

Name of debtor (or assignor) . . . . . .
Address . . . . . .
Name of secured party (or assignee) . . . . . .
Address . . . . . .

(1) This financing statement covers the following types (or items) of property:

(Describe) . . . . . .

(2) (If collateral is crops) The crops described in (1) are growing or are to be grown on:

(Describe real estate) . . . . . .

(3) (If collateral is goods which are or are to become fixtures) The goods described in (1) are affixed or to be affixed to:

(Describe real estate) . . . . . .

(4) (If proceeds or products of collateral are claimed) Proceeds — Products of the collateral are also covered.

Signature of debtor (or assignor) . . . . . .
Signature of secured party (or assignee) . . . . . .

(d) The term "financing statement" as used in AS 45.09.101 — 45.09.507 means the original financing statement and amendments, but if an amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment.

(e) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading. (§ 9.402 ch 114 SLA 1962; am § 1 ch 11 SLA 1963)

Failure to file a financing statement before the security interest attached. under this section, did not deprive the holder of a purchase-money interest in noninventory collateral of the favored status given by AS 45.09.312, where the other secured creditor could have protected itself by inquiring into the

debtor's interest in the collateral before accepting his chattel mortgage. Brodie Hotel Supply, Inc. v. United States, 431 F.2d 1316 (9th Cir. 1970).

Sec. 45.09.403. What constitutes filing; duration of filing; effect of lapsed filing; duties of filing officer. (a) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under AS 45.09.101 — 45.09.507.

(b) A filed financing statement which states a maturity date of the obligation secured of five years or less is effective until the maturity date and afterward for 60 days. Any other filed financing statement is effective for five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the 60-day period after a stated maturity date or on the expiration of the five-year period, as the case may be, unless a continuation statement is filed before the lapse. Upon the lapse the security interest becomes unperfected.

(c) A continuation statement may be filed by the secured party (1) within six months before and 60 days after a stated maturity date of five years or less, and (2) otherwise within six months before the expiration of the five-year period specified in (b) of this section. The continuation statement must be signed by the secured party, identify the original statement by file number, and state that the original statement is still effective. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective; it then lapses in the same manner as provided in (b) of this section unless another continuation statement is filed before the lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it.

(d) A filing officer shall mark each statement with a consecutive file number and with the date and hour of filing and shall hold the statement for public inspection. In addition, the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(e) The uniform fee for filing, indexing, and furnishing filing data for an original or a continuation statement is as prescribed by the administrative director of courts. (§ 9.403 ch 114 SLA 1962)

Sec. 45.09.404. Termination statement. (a) If there is no outstanding secured obligation and no commitment to make advances, incur obligations, or otherwise give value, the secured party must, on written demand by the debtor, send the debtor a statement that he no longer claims a security interest under the financing statement, which shall be identified by file number. A termination statement signed by

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a person other than the secured party of record must include or be accompanied by the assignment or a statement by the secured party of record that he has assigned the security interest to the signer of the termination statement. The uniform fee for filing and indexing such an assignment or statement is as prescribed by the administrative director of courts. If the affected secured party fails to send the termination statement within 10 days after proper demand for it, he is liable to the debtor for $100, and in addition, for any loss caused to the debtor by this failure.

(b) On presentation to the filing officer of the termination statement he must note it in the index. The filing officer shall remove from the files, mark "terminated," and send or deliver to the secured party the financing statement and any continuation statement, statement of assignment, or statement of release pertaining to the financing statement.

(c) The uniform fee for filing and indexing a termination statement including sending or delivering the financing statement is as prescribed by the administrative director of courts. (§ 9.404 ch 114 SLA 1962)

Quoted in R.A. Davenny & Associates v. Shinjin Motor Sales Co., Sup. Ct. Op. No. 1141 (File No. 2411), 533 P.2d 1112 (1975); State v. Alaska Int'l Air, Inc., Sup. Ct. Op. No. 1409 (File No. 2808), 562 P.2d 1064 (1977).

Sec. 45.09.405. Assignment of security interest; duties of filing officer; fees. (a) A financing statement may disclose an assignment of a security interest in the collateral described in the statement by indication in the statement of the name and address of the assignee or by an assignment itself or a copy of an assignment on the face or back of the statement. Either the original secured party or the assignee may sign this statement as the secured party. On presentation to the filing officer of this financing statement, the filing officer shall mark the same as provided in AS 45.09.403(d). The uniform fee for filing, indexing, and furnishing filing data for a financing statement so indicating an assignment is as prescribed by the administrative director of courts.

(b) A secured party may assign of record all or a part of his rights under a financing statement by the filing of a separate written statement of assignment signed by the secured party of record and setting out the name of the secured party of record and the debtor, the file number, and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of the separate statement, the filing officer shall mark the separate statement with the date and hour of the filing. He shall note the assignment on the index of the financing statement. The

uniform fee for filing, indexing, and furnishing filing data about the separate statement of assignment is as prescribed by the administrative director of courts.

(c) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record. (§ 9.405 ch 114 SLA 1962)

Sec. 45.09.406. Release of collateral; duties of filing officer; fees. A secured party of record may, by his signed statement, release all or a part of collateral described in a filed financing statement. The statement of release is sufficient if it contains a description of the collateral being released, the name and address of the debtor, the name and address of the secured party, and the file number of the financing statement. Upon presentation of the statement to the filing officer, he shall mark the statement with the hour and date of filing and shall note this information upon the margin of the index of the filing of the financing statement. The uniform fee for filing and noting the statement of release is as prescribed by the administrative director of courts. (§ 9.406 ch 114 SLA 1962)

Sec. 45.09.407. Information from filing officer. (a) If the person filing a financing statement, termination statement, statement of assignment, or statement of release furnishes the filing officer a copy of it, the filing officer shall upon request note upon the copy the file number and date and hour of the filing of the original and deliver or send the copy to the person.

(b) Upon request of a person, the filing officer shall issue his certificate showing whether there is on file, on the date and hour stated in it, a presently effective financing statement naming a particular debtor and a statement of assignment of it, and if there is, giving the date and hour of filing of each such statement and the names and addresses of each secured party in it. The uniform fee for the certificate is as prescribed by the administrative director of courts for each financing statement and for each statement of assignment reported therein. Upon request, the filing officer shall furnish a copy of a filed financing statement or statement of assignment for a uniform fee as prescribed by the administrative director of courts. (§ 9.407 ch 111 SLA 1962)

Article 5. Default.

Section

501. Default; procedure when security agreement covers both real and personal property
502. Collection rights of secured party
503. Secured party's right to take possession after default
504. Secured party's right to dispose of collateral after default; effect of disposition
505. Compulsory disposition of collateral; acceptance of the collateral as discharge of obligation
506. Debtor's right to redeem collateral
507. Secured party's liability for failure to comply

SB

179

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

February 25, 1981

The Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 179

Thank you for your request concerning our position on SB 179. It represents the work product of the Workers Compensation Study Commission. The Division of Insurance has been working closely with the Workers Compensation Study Commission on a number of the items covered by this legislation. We are in favor of the bill.

The bill transfers the function of regulating workers compensation self-insurance from the Alaska Workers Compensation Board to the Division of Insurance in this department. We are not overly enthralled with the prospect of acquiring this responsibility, but recognize that it is more akin to our operations than those of the board or the Department of Labor. The bill does provide the necessary tools to properly perform this function and section 2 of the bill is based substantially on work done by the Division of Insurance at the request of the Study Commission.

The bill revises the insurance fictitious group statute to permit workers compensation insurance groups to form with greater ease.

The bill revises the insurance rating law to encourage competitive rating in workers compensation insurance. This is a substantial departure from the current system which tends to fix rates by all insurers at the same level regardless of the individual insurer's experience or expenses. This new approach moves in the direction of a recent model by the National Association of Insurance Commissioners.

08-H2LH

We have noted a number of corrections that need to be made. These appear in the enclosed section by section commentary. The commentary is confined to sections 1, 2, 4, 5, 6, 7, 13, 14, 15, 19, 20, 25, 26, 28, 29, 46, 64 and 70.

Very truly yours,

Charles R. Webber
Commissioner

CRW/mh3/15

Enclosure

SB 179
Section by Section Commentary

Section 1. This section is a purpose section for section 2 of the bill.

Section 2. This section adds a new chapter to the insurance code dealing with workers compensation self-insurers. It transfers the function from the Workers Compensation Board to the Division of Insurance. It newly provides for self-insurer groups. The chapter outlines requirements intended to aid in determining the ability of the self-insurer to meet its obligations under AS 23.30. These functions are totally new to the Division of Insurance and will require expertise not presently housed there. The functions are more akin to the functions of the Division of Insurance than they are to the Workers Compensation Board functions.

On page 7, line 24, a stay of revocation provision is included which provides a stay "until the hearing process is completed." This language is ambiguous since no definition provides <u>when</u> the process is completed.

* <u>Proposed Amendment</u>. On page 7, line 24, remove the phrase "hearing process is completed" and add "the time noted in the order issued by the director following the hearing but not sooner than five days following the order."

Section 4. This section modifies the fictitious group statute to facilitate the formation of workers compensation safety groups. Groups do not have standing under the rate law to make rate or rating plan filings. Insurance companies have standing. A minor revision will correct the problem.

* <u>Proposed Amendment</u>. On page 9, line 5, following the word "has" insert the phrase "through an insurer."

Sections 5-6. These sections modify the Alaska insurance rate law for workers compensation from its present prior approval approach to a file and use approach. Under the present system, a single rating organization files rates for all insurers and the insurers are required to adhere to that schedule of rates. This results in little or no rate competition. This proposal would change the role of the rating organization in a way that would result in a wide selection of insurance rates. Under the proposed change

$100 for each day the insurer fails or refuses to pay a final award or judgement (excluding the period permitted for appeal) made against it, or its insured, or it fails or refuses to comply with a provision of this chapter."

Section 15. This section is similar in some respects to HB 94. It changes the formula for payments to the second injury fund from 8% on permanent partial disabilities to 6% on permanent total, permanent partial, temporary total, and temporary partial injuries. This formula will improve the cash flow to the second injury fund. The actuaries of the rating organization have estimated the impact on workers compensation insurance rates to be an increase of 1%.

Sections 19, 20, 25, 26, 28, 29, and 64. The changes in these sections relate to the change in section 2 whereby the regulation of self-insurers is transferred from the Workers Compensation Board to the Division of Insurance.

Sections 25, 26 28 and 64. These sections change "board" to "director of insurance" and also change "compensation" to "benefit." The transfer of the regulation of self-insurance has too quick an effective date to avoid problems. Time is needed to staff, to develop regulations to implement the changes and to work out the bugs. The transfer should be implemented on July 1, 1982. This necessitates a splitting of these sections to reflect that certain changes occur at later dates.

* Proposed Amendment. Split section 25 on page 23, lines 12-24, into 2 sections, 25A and 25B, to read as follows:

Sec. 25A. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either [,] insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers compensation insurance in this state, or shall furnish the board satisfactory proof of his financial ability to pay directly the benefits [COMPENSATION] provided for. If an employer elects to pay directly, the board may, in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit [COMPENSATION] liabilities as they are incurred; and

the rates for each insurer for a particular classification would be different. Insurers would be competing in areas that they do not typically compete in now, including expenses and investment income.

Section 7. This section modifies the deviation section of the insurance rate law to make clear that a rate filing under sections 5 and 6 are not deviations and that a deductible or loss reimbursement plan is not considered a deviation.

Section 13. This section is intended to encourage the use of deductible provisions in a workers compensation insurance policy. It provides that the insurer is liable for the full benefit required under the law but permits recovery by the insurer from the insured employer of the amount they have agreed upon.

Section 14. AS 23.30.030(7) is a required provision in a workers compensation policy. Unfortunately, it is not workable. Form filings are made by a rating organization on behalf of all its member and subscriber companies, so that it is not possible to disapprove the form in the manner outlined. The director of insurance does not presently accept or receive proofs of insurance from any insurer so this language is meaningless. The approach here would penalize all other insured employers of the insurance company and could leave them uninsured. Its akin to killing a gnat with a baseball bat. A better approach would be to allow specific penalty to be determined on the basis of the severity of the specific situation. This could range from a fine to a suspension of authority.

* Proposed Amendment. On page 16, lines 22-29 and page 17, line 1, amend AS 23.30.030(7) to read:

"(7) If the insurer fails or refuses to pay a final award or judgement (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER SHALL REVOKE THE APPROVAL OF THE POLICY FORM, AND MAY NOT ACCEPT FURTHER PROOFS OF INSURANCE FROM IT UNTIL IT HAS PAID THE AWARD OR JUDGEMENT OR HAS COMPLIED WITH THE VIOLATED PROVISION OF THIS CHAPTER, AND HAS RESUBMITTED ITS POLICY FORM AND RECEIVED THE APPROVAL OF THE FORM BY THE INSURANCE COMMISSIONER] may suspend or revoke the insurer's Certificate of Authority pursuant to AS 21.09.150 or impose a fine upon the insurer of not less than $25 and not more than

(2) proof of excess insurance.

Sec. 25B. AS 23.30.075(a) is amended to read:

(a) An employer under this chapter, unless exempted, shall either insure and keep insured for his liability under this chapter in an insurance company or association duly authorized to transact the business of workers compensation insurance in this state, or shall furnish the director of insurance [BOARD] satisfactory proof of his financial ability to pay directly the benefits provided for. If an employer elects to pay directly, the director of insurance [BOARD] may in his [ITS] discretion, require

(1) the deposit of an acceptable security, indemnity or bond to secure the payment of benefit liabilities as they are incurred; and

(2) proof of excess insurance.

Proposed Amendment. Split section 26 on page 23, lines 25-29, and page 24, lines 1-9, into two sections, 26A and 26B to read as follows:

Sec. 26A. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to this chapter or fails to obtain a certificate of self-insurance from the board, upon conviction, is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the [SAID] corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the [SUCH] corporation shall be subject to the penalties prescribed herein and shall be personally, jointly and severally liable together with the corporation for the payment of all [COMPENSATION OR OTHER] benefits for which the corporation is liable under this chapter if the [SAID] corporation at such time is not insured or qualified as a self-insurer.

The above section is unchanged from the bill since need for a further change to page 23, line 28, was overlooked. That change is incorporated in section 26B.

Sec. 26B. AS 23.30.075(b) is amended to read:

(b) An employer who fails to insure and keep insured employees subject to the chapter or fails to obtain a certificate of self-insurance from the director of insurance

[BOARD], upon conviction, is punishable by a fine of not more than $1,000, or by imprisonment for not more than one year, or by both. If an employer is a corporation, all persons who, at the time of the injury or death, had authority to insure the corporation or apply for a certificate of self-insurance, and the person actively in charge of the business of the corporation shall be subject to the penalties prescribed herein and shall be personally, jointly and severally liable together with the corporation for the payment of all benefits for which the corporation is liable under this chapter if the corporation at such time is not insured or qualified as a self-insurer.

* Proposed Amendment. Split section 28 on page 24, lines 19-27 into two sections, 28A and 28B to read as follows:

Sec. 28A. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the board of his financial ability to pay benefits [COMPENSATION] directly without insurance.

Sec. 28B. AS 23.30.085(a) is amended to read:

(a) An employer subject to this chapter, unless exempted, shall initially file evidence of his compliance with the insurance provisions of this chapter with the board, in the form prescribed by it. The employer shall also give evidence of compliance within 10 days after the termination of his insurance by expiration or cancellation. These requirements do not apply to an employer who has certification from the director of insurance [BOARD] of his financial ability to pay benefits directly without insurance.

* Proposed Amendment. Split section 64 on page 46, lines 16-22 into two sections, 64A and 64B to read as follows:

Sec. 64A. AS 23.30.265(19) is amended to read:

(19) "self-insurer" means an employer who, instead of insuring his liability under this chapter as it provides elects to pay directly the benefits [COMPENSATION] provided for, and who has furnished to the board satisfactory proof of his financial ability to make the direct payments and has been issued a self-insurance certificate;

Sec. 64B. AS 23.30.265(19) is amended to read:

(19) "self-insurer" means an employer who, instead of insuring his liability under this chapter as it provides, elects to pay directly the benefits provided for, and who has furnished to the director of insurance [BOARD] satisfactory proof of his financial ability to make the direct payments and has been issued a self-insurance certificate;

Section 29. The language on page 25, lines 4-9, conflicts with sec. 21.62.160 on page 7. It is not needed.

* Proposed Amendment. On page 25 remove the sentences starting on line 4 and ending on line 9.

The new language on page 25 starting on line 9 and ending on line 13 poses a problem since the director will not necessarily know to whom notices must be sent.

* Proposed Amendment. On page 25, line 13, following the word "state," add "provided that the contracting agency has obtained proof of self-insurance from the employer designating the contracting agency as a person to receive notice under this section."

Section 46. No comment generally on this section except to say that the use of a draft on page 38, line 21, is in conflict with a barrier to drafts found in AS 21.89.030 adopted in 1968.

* Proposed Amendment. On page 38, line 21, remove the words "or draft."

Section 70. This is the effective date section calling for an effective date of July 1, 1981. See comments on section 25.

* Proposed Amendment. This section should be split into two sections, 70A and 70B to read as follows.

Sec. 70A. Sections 3, 4-18, 19A, 21-24, 25A, 26A, 27, 28A, 30-63, 64A and 65-69 of this Act take effect on July 1, 1981.

Sec. 70B. Sections 1, 2, 19B, 20, 25B, 26B, 28B, 29 and 64B of this Act take effect on July 1, 1982.

Bill No. Senate Bill 179

Date March 2, 1981

Title "An Act relating to workers' compensation; providing for an effective date."

Contact: Judy Knight and
465-2700
Jacquelyn McClintock
465-2790

This legislation reflects the work accomplished by the workers' compensation study commission and is the result of considerable testimony at commission hearings from workers, labor groups, employers, insurance companies, attorneys, and state agency personnel.

The Workers' Compensation Board and Division have worked very closely with the study commission in recommending amendments that are aimed towards reducing litigation and administrative delays in processing claims. The amendments to AS 23.30 will clarify inconsistencies and ambiguities in the language of the Act and will bring that language into harmony with interpretations set forth in existing court decisions and with the current practice of the Alaska Workers' Compensation Board.

The Department of Labor supports the bill with minor amendments to Sections 15 and 46 and feels it will be a significant factor in reducing the costs of workers' compensation to the employer without jeopardizing benefits to the injured worker.

A Fiscal Note and section by section analysis of the changes affecting the Workers' Compensation Board and Division have been prepared.

POSITION PAPER/Department of Labor

WCCA

POSITION PAPER

ADDENDUM I

GLOSSARY OF TERMS:

Disability: Incapacity due to an injury to earn the wages which the employee was receiving at the time of the injury

Permanent Total Disability: A determination that due to an injury the employee is suffering from an impairment which will keep him from being able to work again at regular employment

Permanent Partial Disability: A determination made after the condition stabilizes of the extent of disability arising from the injury, usually a scheduled benefit

Temporary Total Disability: Indemnity payments made to an injured employee for the amount of time out of work due to an injury until the condition stabilizes

Compromise and Release Agreement: Agreement reached between injured party and employer over extent and dollar value of the injury, which must be approved by the Worker's Compensation Board, and can result in a lump sum payment closing out the indemnity portion of the claim

Average Weekly Wage: Computation of all wages earned over a predetermined amount of time, divided by that number of weeks

Self-Insurer: An employer who, rather than purchasing insurance, has elected to pay directly the compensation required and has provided substantial proof of his ability to make the payments

Second Injury Fund: Fund set up to cover disability and rehabilitation costs in cases where injuries occur to individuals already documented as having a preexisting injury

NOTE: On page 4 of the WCCA Postion Paper, under Offsets to Worker's Compensation Benefits, Section 2, WCCA POSITION, the following correction should be made: That the sum of these weekly payments be limited to 100% of the worker's take home wage, with the worker's compensation benefit being paid first.

Worker's Compensation Committee of Alaska (WCCA)
P.O. Box 1647
Anchorage, Alaska 99501

Mr. Tim Kelly
283 Muldoon Road
Stn. Box 76
Anchorage, Alaska 99504

Dear Senator Kelly:

The Worker's Compensation Committee of Alaska (WCCA) is a political action committee. The committee was formed by a group of Alaskan employers concerned about the economic impact on business of the workers' compensation system in Alaska.

The committee does not want to deprive workers of legitimate benefits. Our objectives are to establish a mechanism for the handling of disputed claims, to encourage a well structured rehabilitation program, and to establish an awareness of the fact the workers' compensation costs are passed on directly to the consumer.

To these ends, we have been actively working with and communicating with employers and employer groups all over the State. We have encouraged these employers and groups to appear at hearings on Workers' Compensation offering input based on a wide range of experiences, and showing the broad base of employer concerns with the problems in the current system.

At this time, we are enclosing an information booklet on the status of the present Workers' Compensation law and our Position Paper outlining our recommendations for legislative and administrative changes in the Workers' Compensation system in the State of Alaska. If you desire any further clarification of our position, WCCA will be happy to provide you with additional information.

Very truly yours,

Richard Cattanach

Board of Directors
Worker's Compensation Committee of Alaska

Howard Addison, Tesoro Alaska Petroleum Co.
Richard Cattanach, Unit Company, Alaska Chapter, AGC 349-4568
Ann Cox, DHL Worldwide Express
Howard Cutter, Alyeska Pipeline Service Co.
Ken Kleker, J.B. Gottstein and Co.
Bud Obermeyer, INA/Alpac
Don Scott, NANA Regional Corp.
Jan Sloan, Clary Insurance Agency
Tom Tierney, Corroon & Black/ Dawson & Co.
Jack Thompson, Air Van Lines
Ike Waldrop, Alaska Chapter, NECA
David Wilkes, American Federation of Business

STATE OF ALASKA

JAY S. HAMMOND, GOVE

DEPARTMENT OF LABOR

BOX 1149
JUNEAU, ALASKA 99811

Ph: 465-2790

March 3, 1981

The Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 179

Thank you for your request concerning our position on SB 179.

This bill reflects the work accomplished by the Workers' Compensation Study Commission and is the result of considerable testimony at commissi hearings from workers, labor groups, employers, insurance companies, attorneys and state agency personnel. Our agency has worked very closely with the Workers' Compensation Study Commission in recommending amendments that are aimed towards reducing litigation and administrative delays in processing claims. The amendments to AS 23.30 will clarify inconsistencies and ambiguities in the language of the Act and will bring that language into harmony with interpretations set forth in existing court decisions and with the current practice of the Alaska Workers' Compensation Board.

We feel the legislation proposed in SB 197 will be a significant factor in reducing the costs of workers' compensation to the employer without jeopardizing benefits to the injured worker and we strongly support the bill.

We have noted minor corrections that should be made to sections 15 and 46 and have enclosed a section by section discussion of the changes that effect the Workers' Compensation Board and Division.

Very truly yours,

Jacquelyn L. McClintock, Director
Workers' Compensation Division

JLM/mjs

Enclosure

07-G6LH

PROPOSED AMENDMENTS

1) Sec. 15. AS 23.30.040(b), page 17, lines 13-15:

The amended section requires clarification on subsequent contributions to the Fund if the employee's claim exceeds one year from the date of injury. We suggest the bill be revised to read:

The first contribution must be made by one year from the date of the injury or on termination of the employee's claim, whichever is sooner. Subsequent contributions must be made yearly or on termination of the employee's claim, whichever is sooner.

2) Sec. 46. AS 23.30.155(d), page 36, lines 18-26:

This amendment was intended to clarify when the employer should file notice of controversion both initially and midstream on an employee's right to benefits. The word OR following the word death was omitted and should be corrected to read:

If the employer controverts the right to benefits, [COMPENSATION] he shall file with the board on or before the 14th day after he has knowled of the alleged injury or death or on or before an installment of compensation payable without an award is due, a notice of controversion on [, IN ACCORDANCE WITH] a form prescribed by the board [, STATING THAT THE RIGHT TO COMPENSATION IS CONTROVERTED, THE NAME OF THE CLAIMANT, THE NAME OF THE EMPLOYER, THE DATE OF THE ALLEGED INJURY OR DEATH, AND THE GROUNDS UPON WHICH THE RIGHT TO COMPENSATION IS CONTROVERTED].

3. AS 23.30.155(o), page 38, line 29 and page 39, lines 1-5:

The purpose of this amendment was to require the employer to report the total amount of all benefits, legal fees and penalties paid during the year or upon termination of a claim, whichever is sooner. Section requires correction to delete the word quarter and clarification on subsequent reports if the employee's claim exceeds one year from the date of injury. We suggest the bill be revised to read:

An employer shall file on or before the date one year from the date of injury or upon termination of the claim, whichever is sooner, a report on a form prescribed by the board, showing the total amount of all benefits, legal fees, and penalties paid during that period [THE QUARTER] including the name of the claimant, the date of injury, and the claim number. Subsequent reports must be made yearly or upon termination of the claim, whichever is sooner.

HB 159/SB 179
Section by Section Analysis

Section 1-2. Section analysis by the Department of Commerce and Economi Development, Division of Insurance.

Section 3. This section prevents discriminatory employment practices on the part of employers towards employees who have filed a claim for workers' compensation benefits. The same prohibition is cross-referenced in AS 23.30.263 under Section 61.

Section 4-7. Section analysis by the Department of Commerce and Economi Development, Division of Insurance.

Section 8. This section adds an additional panel to the Alaska Workers' Compensation Board which may sit in any judicial district in the event regular panel members are unable to attend scheduled hearings. Members of the board, except the Chairman or his designees, are citizens appointed pursuant to AS 23.30.005 and at times have scheduling conflicts with their own occupational duties. The amendme will insure that disputed claims are heard expeditiously by a full board panel and will provide the resources to conduct additional board hearings when the workload requir

Section 9-12. The term "benefits" is substituted for "compensation" to achieve consistency throughout AS 23.30 in conformity with court and board interpretations. The term "benefits" is defined in AS 23.30.265(28) under Section 66 to mean "compensation and medical and related benefits." The definitions for "compensation" and "medical and related benefits" already exist under AS 23.30.265(8) and (16). This amendment will clarify current misunderstandings in interpreting these terms.

Section 13-14. Section analysis by the Department of Commerce and Economi Development, Division of Insurance. Section 14 also includes substitution of "benefits" for "compensation" where applicable.

Section 15. The repeal and reenactment of AS 23.30.040 is necessary if the second injury fund is to continue to meet its statutor obligations to rehabilitate the injured and disabled worker and to reimburse employers/carriers on subsequent injury claims.

This section expands the base for contributions to the second injury fund and incorporates a contribution schedul which will insure the solvency of the fund. It changes the base for payments to the fund from permanent partial disability to permanent total, permanent partial, temporar

total and temporary partial disabilities. Under Section 69, an initial contribution rate of 6 percent is establish which will build reserves before a sliding rate scale takes effect in 1983. It also allows a more realistic maintenance allowance of $200 a month and total maximum expenditures for retraining to $10,000 in order to adequat cover the inflationary rise in expenses encountered fo rehabilitation or retraining. The section also transfers the administrative expenses of the state from the resource of the second injury fund to the general fund.

Section 16-17. Substitution of "benefits" for "compensation" where applic

Section 18. This section allows placement of disabled employees who are being rehabilitated for gainful employment into work situations where the employer is willing to pay some wages to the trainee but does not want the risk of new injury to the handicapped person and the consequent increase in employer's insurance premiums; or if no other employees, having to obtain workers' compensation insurance just for the trainee. Successful rehabilitation will result in getting the handicapped employee back to a self sustaining tax paying citizen of the state and is worth the investmen by the state in accepting the risk of his being re-injured while learning a new occupation. This amendment will also encourage employers to pay wages to the trainee and reduce costs to the rehabilitation agency sponsoring the trainee.

The section also permits the Department of Labor to place eligible persons in rehabilitation programs with an employ in the event a request is not made through the office of vocational rehabilitation.

Section 19-20. Section analysis by the Department of Commerce and Economi Development, Division of Insurance.

Section 21-26. Sections include substitution of "benefits" for "compensat where applicable and analysis by the Department of Commerc and Economic Development, Division of Insurance.

Section 27. Adds a subsection which stiffens the penalties to employer who fail to insure or provide security for workers' compensation liability to their employees and provides the Board with the means to enforce that statutory requirement through stop order authority. Failure to enforce the requirement that all employers secure liability for worker compensation results in a disparity to the employer who does insure and must figure the costs of insurance into his costs of doing business and forces the injured worker to rely on medical care and funds from public assistance programs.

Section 28-30. Section analysis by the Department of Commerce and Ecor Development, Division of Insurance. Also includes sub- stitution of "benefits" for "compensation" where applic

Section 31. This section deletes wording which makes it necessary f an injured employee to appeal to the Alaska Workers' Compensation Board if the need for medical treatment du to work injury extends beyond two years. The board has repeatedly held that if continued medical treatment is required due to the injury, the costs should be paid by the employer's insurance carrier regardless of whether need for medical treatment has lasted for over two year yet, some adjusters continue to stop medical costs and advise the employee the law provides for only two years of medical coverage. The employee then either hi an attorney or petitions the board for help and often t matter must be heard and ruled on by the board before t carrier will pay additional medical costs. As a result the board is required to hold unncecessary hearings, th carrier incurs unnecessary attorney fees and the genera costs of the workers' compensation program is unnecessa increased.

The section also deletes wording that requires an emplo if he wishes to change doctors, to do so "in accordance with rules prescribed by the board." The board is adve to setting out rules, which would in any way, hamper th recovery process or the employee's right to the selecti of the treating physician. If the employee abuses this right, the employer/carrier may seek relief through boa hearing.

Section 32. This section encourages prompt reporting of treatment b doctors treating injured workers. Some doctors now fil a report on first treatment but fail to notify the carr of follow-up treatment. When the doctor gets around to billing some months later, the bill is considerable. S doctors have continued to treat an employee after sendi a first report indicating further care was not necessar or would be minimal. By the time the carrier gets a bi and a follow-up report, the bill is for many hundreds o dollars. This change will also provide the board and employer/carrier with the current medical status on the employee so that his progress can be better monitored.

Section 33. This section deletes language left over in the Act from the days when the employer selected the physician. Exp has shown that the employee never exercises this right except upon the urging of his doctor or attorney. This situation delays resolution of disputed claims and allo some doctors to unnecessarily increase the costs of workers' compensation while they stand around watching another doctor perform an examination of an injured wor This process is duplicative, involves at least 4 partie and wastes time. Section also includes substitution of "benefits" for "compensation" where applicable.

Section 34-36. Substitutes "benefits" for "compensation" where applicable

Section 37. This section deletes ambiguous language which is the result of incomplete amending in 1962 to the statute of limitations provision for filing a claim.

In W. R. Grasle Co. v. Alaska Workmen's Compensation Board 517 p.2d 999 (Alaska 1974), the Supreme Court found no time frame in which the four-year statute may operate subsequent to the 1962 amendment.

The section also includes substitution of "benefits" for "compensation" where applicable.

Section 38-40. Substitutes "benefits" for "compensation" where applicable

Seciton 41. This section provides realistic time frames in the board hearing process and rids the statute of board authorizati to rule on a claim without benefit of the parties to be heard. The change from 10 to 20 days for service of notic of hearing will allow sufficient time for the parties to properly prepare the case for board hearing, thereby reducing the number of continuances or further hearings, and will enable conformance with 8 AAC 45.070(b). Due to the time required for the board to adequately research th difficult legal issues involved in many cases and the geographic separation of some members, the board has consistently been unable to comply with the statutory requirement of 20 days for issuance of its written decisi and order. The change from 20 to 30 days is proposed to grant sufficient research time for the board to set forth its findings and conclusions according to proper statutor criteria, thereby reducing the number of hearings resulti from remands or requests for modification of award, and t allow additional time for the order to be sent to the board members for their review and signature.

The section also deletes the portion of the provision authorizing the board to rule on a claim without benefit of hearing. This portion has never been used by the boar as it precludes the right of the parties to be heard or the opportunity for cross-examination on the issues of th claim.

Includes substitution of benefits for compensation where applicable.

Section 42-45. Substitutes "benefits" for "compensation" where applicable

Section 46. The amendments in AS 23.30.155 are essentially "housekeeping" changes and are aimed primarily towards reduci litigation and administrative delays in processing clai These changes address serious problems or gaps in the A which mislead or confuse employees, employers, and insu carriers and which result in needless litigation. This section 1) clarifies a controverted claim and the requi under which a notice of controversion must be filed; 2) requires notice be filed with the board whenever payment of compensation has begun, terminated or changed and provides penalties for failure to file such notice; 3) includes substitution of "benefits" for "compensation" where applicable; 4) requires board approval for reimbu of advance payments or overpayments of compensation fro unpaid installments; 5) requires that compensation be p by a check or draft which may be immediately cashed; 6) authorizes the board to order lump sum payments for bot scheduled and unscheduled permanent partial disabilitie under AS 23.30.190, whenever it is in the interest of t injured employee and will not cause substantial hardshi to the employer (the board currently is authorized to order lump sum settlements for unscheduled permanent partial disability under AS 23.30.190(20)); and 7) requi periodic reporting of all payments made on claims which will be used to provide the public and private sectors with current and accurate injury statistical data.

Section 47-49. Substitutes "benefits" for "compensation" where applicat

Section 50. This section changes the method by which the average weekly wage is determined in all jurisdictions for purpo of computing compensation and provides for a consistent and equitable means to adjust compensation rates for claims being paid to out-of-state recipients.

Section 51. This section clarifies the rules under which compensatio rates are adjusted for recipients not residing in Alaska consistent with legislative intent and regulations, insu adequate benefit levels for those recipients and provide for an annual adjustment in the compensation rate commen with changes in average weekly wages.

Section 52. This section deletes language now provided for in AS 23.30.155(n) under Section 46.

Section 53. This section provides for payment of compensation to an injured worker at his temporary total disability rate while undergoing rehabilitation or retraining. This change is consistent with interpretations set forth in Supreme Court decisions and with current board practice.

AS 23.30.191 was enacted in 1963 when there was a limit on compensation paid for both temporary and permanent partial disabilities. It was often the case that an injured worker would be paid the maximum, but required rehabilitation to return to the work force. To provide rehabilitation to those no longer entitled to temporary disability compensation, payment of one-half the rate was paid under Section 191. For injuries after May 22, 1975, there is no maximum limit for payment of temporary disability and such compensation should be continued while undergoing rehabilitation if the worker is incapacitated from earning the wages as before injury.

In Phillips Petroleum Company v. Alaska Industrial Board, 17 Alaska (1958), the Supreme Court stated:

> "The period of temporary total disability is defined as: the healing period or the time during which the workman is wholly disabled and unable by reason of his injury to work."

Our statute defines "disability as the incapacity because of injury to earn the wages which the employee was receiving at the time of injury. When such a condition is temporary, AS 23.30.185 requires the payment of temporary total disability compensation during the continuance of the disability.

The intent of the Act is to encourage injured workers who are totally or partially incapacitated for their normal occupation, to undergo vocational rehabilitaiton efforts aimed toward return to gainful employment. This not only benefits the worker, but reduces the future liability of the employer for payment of permanent partial or permanent total disabilities. To reduce the compensation rate by one-half when the worker does undertake such a program discourages rather than encourages participation in retraining.

Section 54. This section provides for the modification of a compromi and release agreement to the degree that a board order c be modified.

AS 23.30.210(b) grants the employee and the employer the right to enter into an agreement to resolve a disputed claim. The board must approve the compromise and releas for the agreement to be valid and, if approved, the agreement is enforceable the same as an order of the board. If the language of the Act is strictly construed however, the agreement cannot be modified within one yea for a mistake of fact or a change in condition as is allowed in the board's orders. Fraud, actual or constru is the only ground for modification. The board, based o its experience with hardships and harsh results in cases involving change of condition, latent injury or mistake fact in cases where compromise and release agreements ha been approved, believes an agreement should be modifiabl at least to the degree that an order can be modified.

Section also includes substitution of "benefits" for "compensation" where applicable.

Section 55. This section provides for inflationary increases in funeral expenses on death claims. The current limit for reasonable and necessary funeral expenses are not adequa and result in a hardship to the family of the deceased o the employer for payment of the additional costs.

Section 56-57. Sections substitute "benefits" for "compensation" where applicable.

Section 58. This section provides stiffer penalties for employees wh wilfully misrepresent a claim to collect benefits.

Section 59-60. Sections substitute "benefits" for "compensation" where applicable.

Section 61. See Section 3.

Section 62. Section substitutes "benefits" for "compensation" where applicable.

Section 63. Section amends definition of "medical and related benefi to include pain clinic services.

Section 64. Section analysis by the Department of Commerce and Econo Development, Division of Insurance. Also includes subst of benefits for Compensation where applicable.

Section 65. This section clarifies the definition of "wages" for purposes of computing an employee's average weekly wage. The deletion of "in force at the time of the injury" is necessary to make the definition consistent with the method by which the average weekly wage is determined under AS 23.30.220 as a result of the 1977 amendments.

Section 66. This section is amended to include a definition for "bene as explained in Section 9-12, and defines the term "reser rate" as used in Section 15.

Section 67. Section deletes inconsistent and ambiguous language in th Act and those provisions that are repealed by the propose legislation.

Section 68. This section clarifies that the amount of payment to the second injury fund and the conditions under which payment is required, is in accordance with the version of AS 23.30.040(b) that was in effect on the date of injury to the employee.

Section 69. See Section 15.

Section 70. This section provides for an effective date for the bill of July 1, 1981.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Definitions (in the context of SB 179):

BENEFITS: Compensation and related medical benefits

SECOND INJURY FUND: Fund established to cover disability and Rehabilition costs in cases where injuries occur to individuals already documented as having a pre-existing injury.

Permanent Total Disability: A determination that due to an injury the employee is suffering from an impairment which will keep him from being able to work again at his regular employment.

PERMANENT PARTIAL DISABILITY: A determination made after the condotion stabilizes to the extent of disability arising from the injury, usually a scheduled benefit.

TEMPORARY TOTAL DISABILITY: Indemnity payments made to an injured employee for the amount of time out of work due to an injury until the condition stabilizes.

COMPROMISE AND RELEASE AGGREEMENT: Agreement reached between the injured party and employer over the extent and dollar value of the injury which must be approved by the Workers Compensation Board, and can result in a lump sum payment closing out the indemnity portion of the claim.

AVERAGE WEEKLY WAGE: Computation of all wages earned over a pre-determined amount of time, divided by that number of weeks.

SELF INSURER: An employer who, rather than purchasing insurance, has elected to pay directly the compensation required and has provided substantial proof of his ability to make payments.

WAGES: Wages means the money rate which the services rendered is recompensed under the contract of hiring, and includes the reasonable value to the employee of board, rent, lodging, or similar advantage received from the employer, and gratuities received in the course of employment.

RESERVE RATE: Means the unencumbered second injury fund balance on October 31st of each year as a percentage of disbursements from the Second Injury Fund during the 12 month period ending June 30th of the same calendar year.

Medical Benefits to include pain clinic services.

FEATURES OF SB 179:

1. SB 179 increases the Workmans Comp board from 7 members to 9.
2. Provides for 3 additional staff for Div. of Insurance
3. Introduced to reduce costs to employers, yet retain protection for the injured employee
   A. Provides for self insurers to form (less expensive)
   B. Extends benefits of the Second injury fund to assist in rehabilitating injured worker and returning him to the work force. Expands the base for contributions
4. Through out the bill language substitutions are made between "benefits" and "compensation"; clarifies current misunderstandings
5. Defines classes of disabilities:
   a. Permanent total
   b. Permanent Partial

   Temporary Total
   d. Defines Reserve Rate, Compromise and Release Agreement, Average weekly Wages.
6. Allows medical benefits to extend to Pain Clinics
7. Prevents discriminatory employment practices towards employees who have filed for Compensation
8. Insures claims (disputed) are heard expeditiously
9. Establishes solvency minimums for self insurers
10. Stiffens penalties to employers who fail to insure
11. Transfers Authority from Workmans Comp. Brd. to Div. of insurance for regulating insurance related matters
12. An employer subject to this chapter must file evidence of his insurance compliance
13. Allows the placement of a disabled employee who is being rehabilitated into a work situation where the employer is paying some wages to the trainee, but does not want the risk of further injury to the employee or the increase of employers insurance premiums.
14. Permits the Dept. of Labor to place eligible persons in rehab programs with an employer in the event a request is not made through the Div. of Vocational Rehabilitation.

SB 179 continued:

15. Provides that if additional treatment is necessary due to the injury, the cost should be paid by the employers insurance carrier. Regardless of whether the treatment has lasted over 2 years.
16. Outlines the employees right to the selection of physicians; If the employee abuses this right,the employer/carrier may seek relief through a Board hearing.
17. Encourages prompt reporting by physicians. Provides the Board and employer/carrier with current medical status on the employee so they may monitor recovery.
18. Provides a time frame of 20 days notice (currently 10 days) of hearing to allow more sufficient time for the parties to prepare their cases.
19. In the case of written decisions/orders the period of time is extended from 20 to 30 days to allow the board adequate time for research. Should reduce the number of hearings resulting from a request for the modification of an award.
20. Deletes the portion of the provision authorizing the Board to rule on a claim without the benefit of a hearing.
21. Changes the method by which the average weekly wage is determined; The average weekly wage for Alaska is determined by dividing the total wages paid by all the employers covered by the Alaska Employment Security Act, by the average monthly employment reported by these employers for the same period and dividing by 52.
22. For those employees who reside outside Alaska, the average weekly comp shall be calculated by using the employees average weekly wage times the ratio of the average weekly wage of the area in which the recipient resides to the average weely wage of Alaska.
23. Provides for Payment of compensation to an injured worker at his temporary total disability rate while under going rehabilitation or retraining.
24. Defined disability as the incapacityof the injured worker to earn the wages which he was receiving at the time of his injury.
25. When an injury condition is temporary, the statute requires the payment of temporary total disability compensation during the continuance of the disability. The intent of this is to provide the injured worker with the added initiative to retrain thru Vocational Rehab to return to gainful employment.

26. Grants the employee and the employer the right to enter into an agreement to resolve disputed claims. The board must approve the compromise and Release agreement for the agreement ot be valid, and if approved the agreement is enforcible the same as an order of the Board.

27. Provides for inflationary increases in the funeral expenses on death benefits.

28. Stiffer penalties for employees who will-fully mis-represent a claim to collect benefits.

29. Clarifies the amount of payment to the second injury fund, and the conditions under which such payment is required.

5. AMENDMENTS PROPOSED

A. On page 7, line 24, a stay of revocation provision is included which provides the stay "until the hearing process is completed." This is ambiguous language since no definition provides when the process is completed. We would suggest removing the words "hearing process is completed" and add "the time noted in the order issued by the director following the hearing but not sooner than five days following the order."

B. On page 9, line 5, a requirement for workers compensation insurance groups is the filing and approval of a rating program. Safety groups do not have standing to make such filings, but insurers do. A minor insertion would clarify the situation. Following the word "has," insert the words "through an insurer."

C. On page 16, lines 22-29 and page 17, line 1, AS 23.30.030(7) is revised to change "insurance commissioner" to "director of insurance." The section is however not workable. Form filings are made by a rating organization on behalf of all its member and subscriber companies, so that it is not possible to disapprove the form in the manner outlined. The director of insurance does not presently accept or receive proofs of insurance from any insurer so this language is meaningless. The approach here would penalize all other insured employers of the insurance company and could leave them uninsured. A better approach would be to allow specific penalty to be determined on the basis of the severity of the specific situation. This could range from a fine to suspension of authority. We would suggest the following language:

"(7) If the insurer fails or refuses to pay a final award or judgement (except during the pendency of an appeal) made against it, or its insured, or if it fails or refuses to comply with a provision of this chapter, the director of insurance [COMMISSIONER SHALL REVOKE THE APPROVAL OF THE POLICY FORM, AND MAY NOT ACCEPT FURTHER PROOFS OF INSURANCE FROM IT UNTIL IT HAS PAID THE AWARD OR JUDGEMENT OR HAS COMPLIED WITH THE VIOLATED PROVISION OF THIS CHAPTER, AND HAS RESUBMITTED ITS POLICY FORM AND RECEIVED THE APPROVAL OF THE FORM BY THE INSURANCE COMMISSIONER] may suspend or revoke the insurer's Certificate of Authority pursuant to AS 21.09.150 or impose a fine upon the insurer of not less than $25 and not more than $100 for each day the insurer fails or refuses to pay a final award or judgement (excluding the period permitted for appeal) made against it, or its insured, or it fails or refuses to comply with a provision of this chapter."

D. On page 23, line 28, omit the word "board" and insert the words "director of insurance."

E. On page 25, line 13, following the word "State," add "provided that the contracting agency has obtained proof of self-insurance from the employer designating the contracting agency as a person to receive notice under this section."

5. AMENDMENTS PROPOSED (Continued)

F. On page 38, line 21, remove the words "or draft."

G. Provide a different effective date for sections 1, 2, 19, 20, part of 25, part of 26, 29, and part of 64. The effective date for these sections should be July 1, 1982.

The change on page 23, lines 14, 18, 20, 22, 23 and 24 should be effective July 1, 1981.

The change on page 23, lines 17 and 19 should be effective on July 1, 1982.

The change on page 46, lines 19, 21 and 22 should be effective on July 1, 1981.

The change on page 46, line 20 should be effective on July 1, 1982.

THE CHANGE ON PAGE 24, LINES 2, 4, 7 AND 8 SHOULD BE EFFECTIVE ON JULY 1, 1981.

THE CHANGE ON PAGE 23 LINE 28 (SEE PROPOSED AMENDMENT D) SHOULD BE EFFECTIVE ON JULY 1, 1982.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 179

Title "An Act Relating to Workers' Compensation and providing for an effective date."

Requested by Senate Labor and Commerce Committee Date 3/4/81

II. FISCAL DETAIL

Agency Affected Workers' Compensation Division, Department of Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		83.9	90.6	97.8	105.6	114.0
200	TRAVEL		7.3	7.9	8.5	9.2	9.9
300	CONTRACTUAL		17.6	19.0	20.5	22.1	23.9
400	COMMODITIES		1.5	1.6	1.7	1.8	1.9
500	EQUIPMENT		3.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		113.3	119.1	128.5	138.7	149.7

FUNDING (Thousands of Dollars)

GENERAL FUND		113.3	119.1	128.5	138.7	149.7
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

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

1.) Personal Services Cost at current salary and benefit cost (1/1/81).
2.) Travel Statewide - Workers' Compensation OfficerII.
3.) Contractual Services - includes Indirect Cost (Administrative Services), rental space and other.
4.) Equipment - one time items to set up the new employees with desk, chair, cabinets and partitions.
5.) Assumes effective date July 1, 1981.
6.) Inflation factor used 8%, all items.

IV. DATE 3/4/81 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

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

33-001 (Rev. 12/80

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Workers' Compensation Officer II				18 A	G	Anchorage	Gov.		
2.	Type of Position PFT	Staff Months 12	RP No.	PCN No.	Priority		Form 12 page/line	Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2640 x 12		31,680	
5.	Benefits 15.87		5,028	
6.	FICA .0613		1,942	
7.	Health Ins. 150 x 12		1,800	
8.	Total Personal Services	01		40,450
9.	Travel	02		7,300
10.	Contractual	03		7,789
11.	Commodities	04		500
12.	Equipment	05		1,600
13.	Other			
14.	Total Cost			57,639

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	57,639
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER_____ COLUMN NO._____

The 7.3 travel includes 4.5 transportation and 3.0 per diem for statewide travel to conduct investigations. The 7.8 contractual is 2.0 phone and postage, 2.7 space rental and 3.1 indirect (Administrative Services). The .5 commodities is for office supplies. The 1.6 equipment is .7 for a desk and chair and .9 for partitions.

This position will investigate businesses statewide to assure that employers subject to AS 23.30 have insured or provided security for Workers' Compensation liability as required under AS 23.30.075 and will testify and present evidence at Board hearings concerning issuance to stop orders and assessment of penalties under AS 23.30.080(d).

Addresses BRU objectives 1, 3 and 4 and provides the means to enforce the provisions of the Act that an employer insure or provide security for workers' compensation liability to their employees.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 1 OF 1

FY 82

13 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Clerk I			6 A	G	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1249 x 12		14,988	
5.	Benefits	15.87	2,379	
6.	FICA	.0613	919	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		20,086
9.	Travel	02		
10.	Contractual	03		4,161
11.	Commodities	04		500
12.	Equipment	05		700
13.	Other			
14.	Total Cost			25,447

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	25,447
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER_____ COLUMN NO._____

The 4.2 contractual consists of 2.7 space rental and 1.5 indirect (Administrative Services). The .5 commodities is for office supplies; the .7 equipment is a desk and chair.

This position will provide full-time filing and general clerical assistance to the Division. The additional reports required of employers insurance carriers will be distributed and filed by this position. A full-time filing position will allow the filing to be kept current and avoid delays in searching for unfiled reports.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE _____

PAGE 2 OF 3

FY 82

13 REQUEST FOR NEW POSITION

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Data Control Clerk I			9 A	G	[illegible]neau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 Page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1475 x 12		17,700	
5.	Benefits 15.87		2,809	
6.	FICA .0613		1,085	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		23,394
9.	Travel	02		-0-
10.	Contractual	03		5,626
11.	Commodities	04		500
12.	Equipment	05		700
13.	Other			
14.	Total Cost			30,220

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	30,220
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER ____ COLUMN NO. ____

The 5.6 contractual consists of 2.7 space rental, 1.7 indirect (Administrative Services) and 1.2 for computer terminal leasing. The .5 commodities is for office supplies. The .7 equipment is a desk and chair.

This position will handle part of the increased workload in the filing and coding units due to the increased reporting requirements of employers' insurance carriers. The information from the additional reports will be entered via computer terminal into our new information handling system. This data will give the Division accurate statistics on all costs of every claim as well as precise computations as to the carrier's change in any claimant payment.

AGENCY Labor

PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Workers' Compensation

REVISED DATE ____

PAGE 3 OF FY 82

13 REQUEST FOR NEW POSITION

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 179

Title "An Act relating to Second Injury Fund & providing for an effective date."

Requested by Senate Labor & Commerce Committee Date 3-3-81

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection, Public Protection

BRU, Program, or Subprogram(s) Affected Second Injury Fund

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		199.4	215.4	232.6	251.2	271.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Second Injury Fund		(199.4)	(215.4)	(232.6)	(251.2)	(271.3)

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

1) Request a funding change for the administrative cost of the program from Second Injury Fund to General Fund.

2) Assumes an inflation factor of 8%, all items.

3) Assumes an effective date of July 1, 1981.

IV. DATE March 4, 1981 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

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

33-001 (Rev. 12/80)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB-179

Title An act relating to Workers Compensation

Requested by Legislative Council Date 2-16-81

II. FISCAL DETAIL

Agency Affected Department of Commerce

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		115.0	127.6	140.00	154.0	169.4
200	TRAVEL		5.0	6.0	6.0	7.0	8.0
300	CONTRACTUAL		23.7	23.7	25.5	26.0	27.0
400	COMMODITIES		2.0	2.0	2.5	2.5	3.0
500	EQUIPMENT		5.0	0	0	0	0
600	LAND & STRUCTURES		0	0	0	0	0
700	GRANTS, CLAIMS, ETC.		0	0	0	0	0
	TOTAL		150.7	158.7	174.0	189.5	207.4

FUNDING (Thousands of Dollars)

GENERAL FUND		150.7	158.7	174.0	189.5	207.4
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		3	3	3	3	3
PART TIME						
TEMPORARY						

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

Range 21 Chief Workers Compensation Survillance (self Insurer)
Range 18 Workers' Compensation Analyst
Range 10 Document Processing Clerk

	114,675
Travel to interview self insureds, administrators ect.	5,000
Contractual Services for accounting card statistical review & Office space	23,700
Misc. Supplys	2,000
Equipment 3 each Desks, Chairs, Calaulators ect.	5,000
	$150,375

(See Attachments)

IV. DATE 2/23/81 PREPARED BY Kenneth C. Moore, Director

AGENCY Department of Commerce: Division of Insurance

PHONE 465-2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

	POSITION TITLE				RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Chief Self Insurer WC Surveillance				21A	G				
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE	LEG.		
2	PFT	12								

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3	PERSONAL SERVICES:		
4	SALARY	38520.00	
5	BENEFITS	8593.00	
6	FICA		
7	HEALTH INS.	1800.00	
8	TOTAL PERSONAL SERVICES 01		48913.00
9	TRAVEL 02		
10	CONTRACTUAL 03		
11	COMMODITIES 04		
12	EQUIPMENT 05		
13	OTHER		
14	TOTAL COST		

JUSTIFICATION:

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

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4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Commerce & Economic Development PROGRAM Consumer Protection

BRU Insurance

COMPONENT _____

13 REQUEST FOR NEW POSITION.

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REVISED DATE _____

FY 82

01-1123/8/8C

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Workers Compensation Analyst			18A	G				
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	31680.00	
5	BENEFITS	6930.00	
6	FICA		
7	HEALTH INS.	1800.00	
8	TOTAL PERSONAL SERVICES 01		40410.00
9	TRAVEL 02		
10	CONTRACTUAL 03		
11	COMMODITIES 04		
12	EQUIPMENT 05		
13	OTHER		
14	TOTAL COST		

JUSTIFICATION:

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR O&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

AGENCY Commerce & Economic Development PROGRAM Consumer Protection

BRU Insurance

COMPONENT _____

13 REQUEST FOR NEW POSITION

Page ____ of ____

REVISED DATE _____

FY 82

h1.1126(2/80)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Document Processing Clerk			10B			GOV		
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	19356.00	
5	BENEFITS	4796.00	
6	FICA		
7	HEALTH INS.	1800.00	
8	TOTAL PERSONAL SERVICES	01	25352.00
9	TRAVEL	02	
10	CONTRACTUAL	03	
11	COMMODITIES	04	
12	EQUIPMENT	05	
13	OTHER		
14	TOTAL COST		

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

AGENCY Commerce & Economic Development PROGRAM Consumer Protection

BRU Insurance

COMPONENT _____

13 REQUEST FOR NEW POSITION

Page _____ of _____

REVISED DATE _____

FY 82

01-11381B/P01

SB 200

SUMMARY SB 200:

PROBLEM: Certain fisherman who freeze and glaze fish aboard their boats, yet are not processors, are taxed under the fisheries business tax law.

Section 1: A person who buys fish from a fisherman exempted under Sec 2, must pay the tax, so that the tax is not lost to the State.

Section 2: Exempts fisherman who freeze and glaze fish aboard their boats from the Raw fish tax. A person is not processing fish (within the Tax Statute) if he operates a commercial fishing vessel with a valid commercial license, does no more than head, gut , clean,freeze, and glaze those fish which he has caught himself.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

March 11, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Room 207 - Capitol Building
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 200

Senate Bill No. 200, an Act relating to the fisheries business tax (AS 43.75.015) was introduced in the Senate on February 23, 1981 and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division and Mr. Robert W. Elliott, Research Section of the Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary L. Jenkins, Director
Audit Division
Department of Revenue

Robert W. Elliott
Research Section
Department of Revenue

04-0[illegible]LH

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE: March 9, 1981

FILE NO:

TELEPHONE NO:

SUBJECT: SB 200

FROM: Gary L. Jenkins
Director
Audit Division

This bill would provide an exemption from the Fisheries Business Tax for those fishermen who catch and freeze salmon aboard the catching vessel. This provision is being proposed to exempt a group of trollers who have installed freezing equipment on their vessels in order to maximize the quality of their salmon by freezing it immediately after it is caught.

The proposed legislation will cause some potentially serious administrative problems in that if one of the exempted fishermen sells his catch to a buyer who is not a licensed processor, then the buyer will be liable for the tax. Under the current law, a buyer is not liable for the tax unless he performs some processing function. Thus, if a buyer acquires salmon from an exempted fisherman, we will have to attempt to keep track of these buyers to insure that the tax is paid. Since the only record we have of a buyer is a business license, if one was obtained, and the name and business description may not identify him as a buyer at all, we will have very little information available to use as we attempt to insure that the tax is paid on these transactions. It is impossible to estimate to potential revenue loss which might result from these transactions since we do not know the dollar volume of sales which an excluded fisherman might make to a buyer.

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 20, 1981

SUBJECT: Analysis of bill amending fisheries business tax (Work Order Number 12-0461) SB 200

TO: Senator Richard I. Eliason

FROM: Linn H. Asper
Legislative Counsel

You have asked for a brief analysis of the bill which I drafted to exempt certain fishing operations from the fisheries business tax (AS 43.75). The problem addressed was that certain commercial fishermen who freeze and glaze fish aboard their boats, but who are not really fish "processors" are being taxed under the fisheries business tax law as "persons engaging in a fisheries business who first process a fisheries resource".

Section 2 of the bill exempts the fishermen described above from the fisheries business tax by stating that a person is not processing fish within the meaning of the tax statute if he operates a commercial fishing vessel under a valid commercial fishing license, does no more to process fish than heading, gutting, cleaning, freezing and glazing and only freezes fish that he has caught himself.

Section 1 is in the bill to insure that a person who buys frozen fish from a fisherman exempted under Sec. 2 will pay the tax, so that the tax revenue is not lost to the state. This result is fair in that the purchaser of the frozen fish is actually getting processed or partially processed fish.

As it reads now, the bill applies only to the salmon fishery.

LHA:ljb

Back-up Material for SB 200

November 14,1980

Richard Eliason
1513 Halibut Point Road
Box 143
Sitka, Alaska 99835

Dear Dick;

Greetings! I hope things are going well for you this winter. We are enjoying a rather prolonged fall here in Haines--so far no snow.

Well, I am faced with kind of a problem. You have probably seen by now the little stack of paper from the Department of Revenue that I have enclosed. It seems that the State is now considering those fishermen who freeze their catch aboard to be "floating " processors and liable for the "processing tax"(five percent of the gross). It looks like we are supposed to file and pay for both the 1979 and 1980 seasons. The "real" processors have always paid this in the past and of course this new interpretation was not anticipated by us or the fish buyers. There was not any adjustment figured into the prices for either of these years. H.P.C. will return to us the 3% tax that they paid on these fish which the State returned to them(us "floating" processors pay the higher rate of 5%) but I am not sure what the other buyers will do. We will have to readjust our 1979 income taxes if, indeed, we are required to pay this tax.

Since it was all so new and hit us so hard, I decided not to pay initially. I sent the forms back with the reply(on page 3 of 4) requesting a copy of the law and appeals precedure.

I suspect our only hope of relief will be legislation clarifying the law or exempting freezer boats.

What do you think? Is this worth looking into? I feel a very awkward and painful situation has developed here with this new interpretation.

Looking forward to hearing from you.

Sincerely, Jim Moore

Jim Moore
F/V Aljac
Box 655
Haines, Alaska 99827

phone: 766-2534

STATE OF ALASKA
DEPARTMENT OF REVENUE

SCHEDULE

TAX TYPE Fisheries Business	EXPLANATION OF ITEMS	S.S.N./EIN
NAME OF TAXPAYER James Moore		YEAR/PERIOD ENDED 7912

CONCLUSION:

Conclusion is that taxpayer was the person who first actually and physically processed the fishery resource and is liable for the tax under A.S. 43.75.015(a)(3) at a rate of five per cent for resource frozen aboard fishing vessel and later sold to Sitka Sound Seafoods.

TAXPAYER'S POSITION: It is the taxpayer's position that he is not the taxpayer. Freezing of fish aboard the vessel is more in the line of preserving the catch than processing for market and it is in fact and has been for years considered "normal commercial fishing activities". There is a distinction between a fishing operation and what is meant by"fisheries business" under A.S.43.75.015. and the tax levied in this case is not in line with the intent of the law. I don't believe that we are any more liable for this tax than is my crew member (who "first actually and physically" processed the catch). Quite clearly HPC is the licensed processor - we are the licensed fishing boat. Prepa-ration of the product for marketing or processing begins when the fish is stunned in the water and brought aboard the fishing vessel. The degree to which the fish is brought to final marketing condition varies with diferent commercial fishing operations- some are sold in the round- some dressed- some fresh- some iced- some frozen, but the final stages of processing are done by or- under contract by the processor (in this case HPC). Sea frozen fish should not be considered fully processed. Often it has to be reglazed. Frozen fish must now be landed "heads-on" and the head must be taken off and the fish glazed again or reportedly in some instanees stripped of its protective sea-frozen glaze and completely re-glazed. The new interpretation of the law and the new position of the State is impractical. It seems much more reasonable that the tax should be levied at the HPC level rather than at the fishing flee

(continuation of TAXPAYER'S POSITION)

level. One tax levied to HPC would certainly be more easily implimented than to"onehundred and one" individual fishermen. Ex vessel prices for sea-frozen fish did not reflect this new position and the hardship to the fishermen caused by this is considerable especially since the 1979 season was unusually good and the 1980 season unusually poor. IN the case of HPC, since it is a cooperative, I am paying this tax at any rate. The HPC board of directors will most likely pass on the refunded 3% tax to offset a 5% tax in this case, however what policy the other processors will adapt is unknown. Federal and State Income Tax returns would all have to be adjusted as would crew shares. In all I see mountain of paperwork and considerable hardship and expense to both the State and the taxpayers. I'm not convinced that this is the intent of the law. Please send me a copy of the legislation and inform me as to the appeals proceedure.

Sincerely,

James Moore
Box 655
Haines, Alaska
99827

P. O. Box 127
La Conner, Washington
January 22, 1981

The Honorable Dick Eliason
State Senate Building
Juneau, Alaska 99811

Dear Senator Eliason

I am writing concerning the recent reinterpretation of an Alaska law to classify salmon trollers who freeze their own catch as processors. I oppose this reinterpretation and am asking that legislative action be taken to exempt salmon trollers from being declared processors if they freeze their own catch.

My wife and I operate a 44' trolling boat on which salmon have been preserved by both icing and freezing. When icing, the fish are cleaned immediately after being caught and then are stored on ice for up to ten days before being delivered to a cold storage. At the cold storage they are headed, cleaned further and frozen. When I am freezing, the initial cleaning is much more thorough and within 6 to 8 hours, after all the blood has been removed from the fish by washing and cleaning several more times, the fish are frozen. Within several days of freezing the fish are glazed and then stored. Throughout the entire handling process special care is taken to maintain the highest quality. In many cases the fish are eventually unloaded to the same cold storages as the iced fish.

I do not believe I should be classified as a processor because I preserve my fish by freezing instead of icing. I do not buy fish from other fishermen. I do not hire a crew. The main difference between my operation when I freeze rather than ice is quality. Sea frozen troll salmon are the highest quality salmon produced anywhere. Considering the bad publicity that some Alaska fish products have received in the past few years one would expect the state to encourage quality. Classification of sea freeze trollers as processors, however, will result in many of these boats abandoning freezing and returning to icing.

Under the new ruling, these trollers will have to obtain permits from and/or be inspected by the Department of Labor, Department of Revenue, Department of Environment and Department of Fish and Game. A 5% gross receipts tax will have to be paid on the total value of the catch. At present the cold storages pay a 3% tax on these fish. An estimate of this tax will have to be paid prior to the start of the season or a bond posted for the amount. Out-of-state boats will have to

pay or post a bond of twice the estimated tax. In addition, one or two bonds of $10,000.00 will also have to be posted.

In contrast, by catching the same number of fish in the same places by the same methods but icing instead of freezing, the troller eliminates a huge beaurocratic morass, saves bonding fees and saves on the landing tax. In return the troller gets to land an inferior quality product for which he will get a lower price than if he landed a frozen product.

Considering the recent actions of the Board of Fisheries and the NPFMC that have resulted in the reduction of the troll season by 45 days in the past two years the economic impact of this tax ruling on the trollers that have invested in freezing equipment is going to be considerable.

In 1976 a Mr. Kirkland of the Alaska Department of Revenue ruled that trollers who freeze their own catch are not processors. In 1979 this ruling was changed but I wonder if the Department understood what is was doing. In December of 1980 two trollers talked to the present head of the Department of Revenue about this matter and had to spend the better part of an hour explaining to him the difference between trollers and trawlers!

I wish you would give this matter some serious thought and I hope you would remidy this situation by submitting legislation to exempt sea freeze trollers from the processor classification.

Sincerely yours,

Donald E. Power

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING / POUCH SA – JUNEAU 99811

September 26, 1980

To Whom it May Concern:

Re: Cancelation of ALASKA TAX RULING #77-3
Dated 4/29/77.

During a recent review of our outstanding Revenue Rulings, it was determined that Ruling #77-3 is in error and should be canceled immediately. It is very clear in the statutes that any freezing operation is considered processing and the person performing that act will definitely be considered the processor for the purposes of the imposition of the tax. The statement in the Ruling that freezing which is necessary for the preservation of the product does not constitute processing, is clearly in error.

If you have any questions regarding this ruling, please feel free to contact me. In the very near future, the Department of Revenue will be holding hearings on regulations dealing with several aspects of the fisheries business tax, including defining who is a processor and what constitutes processing.

Very truly yours,

Gary L. Jenkins
Director
Audit Division

Attachment

4LH

04 DALH

STATE OF ALASKA

CANCELLED
DATE 9-26-80

JAY S. HAMMOND, GOVERNOR

REFERENCE Memo 9-26-80

DEPARTMENT OF REVENUE

STATE OFFICE BUILDING / PLOUCH SA – JUNEAU 99811

ALASKA TAX RULING #77-3

SUBJECT: Definition of Freezership under AS 43.75.

SPECIFIC ISSUE:

Is a fishing vessel, equipped with freezing facilities, which freezes its catch, processes (filleting and packaging) and sells its catch, subject to the statutes applicable to freezerships and other floating cold storage facilities? No fish are purchased.

APPLICABLE LAW:

Alaska Statute 43.75.060 states in part:

"Sec. 43.75.060. Fisheries business licenses. A person engaging or attempting to engage in any of the following lines of business in connection with the state's commercial fisheries shall first obtain a license.

. . .

(2) Freezer ships and other floating cold storages shall pay an annual license tax equal to four per cent of the value of the raw halibut, halibut livers and viscera, salmon and bottom fish, shellfish or other fishing resource bought or obtained for processing through freezing, salting or other method or the taking of crab for export without such processing. The value of the raw material under §§ 60--90 of this chapter is the actual price paid for it including indirect considerations such as fuel or supplies furnished by the processor or offsets to the cash value for gear furnished. The value applies to the raw material procured in company-owned or subsidized boats operated by employees of the processor or under lease or other arrangements.

(3) In (1) of this section, "shore-based cold storages and other fish processors" mean those cold storages and processing plants which are permanently attached to the land or have remained in the same location for a period of not less than one calendar year. Any cold storage or processing plant removed from the state is a floating cold storage under (2) of this section from the day of removal.

(4) Cold storages and fish processing plants which are not shore-based under (3) of this section are "floating cold storages" under (2) of this section.

. . .

DISCUSSION:

The fact that a vessel, rigged for fishing, freezes its catch instead of icing does not subject the vessel or its operators and owners to the statutes applicable to freezerships because the mere preservation of the catch until it can be ~~processed~~ does not constitute processing.

However, any activity that goes beyond the preservation of the quality of the catch until it can be processed begins to enter into the processing function. In the specific issue, where the fish are filleted and packaged, the process definitely is beyond the mere preservation of the catch and the activity of filleting and packaging would result in a finished product for sale and would, therefore, become taxable under the fish processing statutes.

POSITION:

The processing function beyond that normally associated with fishing, is a processing activity under AS 43.75.060. Any processing done aboard a mobile or floating vessel is taxable under the provisions of those statutes applicable to the 4% tax under AS 43.75.060(2) relating to mobile processing facilities.

Prepared by:

Eloise Herrick
Eloise Herrick
Tax Examiner

4-28-77
Date

Approved by:

Gary L. Jenkins
Gary L. Jenkins
Director
Audit Division

4-29-77
Date

MEMORANDUM State of Alaska

TO: John Valentine
Department of Fish & Game
Ketchikan, Alaska

DATE: January 26, 1976

FILE NO: 101.3

TELEPHONE NO:

FROM: Richard Kirkland
Office Operations Supervisor
Audit Division
Department of Revenue

SUBJECT: Taxable status of fishing vessels freezing fish

The question appears to be: Is a fishing vessel which carries freezing facilities aboard (and which freezes caught fish) subject to tax provisions applying to freezer ships?

The facts present are: 1) the vessels in question are of a size normally associated with salmon fishing in Southeast Alaska (40-60 feet), 2) the vessels are rigged for commercial fishing; carry proper gear license, and the skipper holds a valid Limited Entry Permit, 3) the only processing of the fish is that essential to preservation of quality (gutting), and 4) no buying of fish is done, and all fish carried in storage aboard were caught in fact by the vessel operator and crew.

On a vessel as described, the primary purpose of the vessel is fishing; and the fact that the caught fish are stored aboard in frozen condition, rather than packed in ice, appears to be incidental.

In the case of a freezership a different set of circumstances prevail, and the primary purpose of the vessel is processing.

Therefore, in my opinion, the fact that a fishing vessel preserves quality by freezing does not constitute freezership or floating cold storage operation, and the vessels described in the fact summary above would not be subject to the tax levied on freezerships.

RK/lam

cc: Lou Nelson
Frank Blackwell
Eloise Derrick

907-465-2328

Return to Frank

COMMITTEE REPORT

SENATE

FURTHER: Finance

2/23/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 200

fisheries business tax

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

[ ] do pass [ ] do not pass

[—] do pass with attached amendments(s)

[ ] same title

[ ] replace with CS for _____ [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Markham

MEMBERS HAVING
OTHER RECOMMENDATIONS:

D. N.t Pass w/o retroactive date clause #3 only

Do Not Pass w/o retroactive date clause Fahrenkamp V

Bob Markham
CHAIRMAN

AMENDMENT

OFFERED IN THE SENATE: BY: Senate Labor and Commerce

TO: Labor and Commerce SENATE BILL No. 200

HOUSE BILL No. _____

PAGE: 1 LINE: 28

Sec 43.75.017

(4) the salmon are sold to a fisheries business licensed under AS 43.75

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:09 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 200 "An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Senator Dick Eliason addressed SB 200, explaining the background of the fisheries business tax, and that the tax is retroactive for two years. (tape reading 010 to 272)

Mr. Gary Jenkins, Director of the Audit Division, Department of Revenue testified on the problems with administrating the bill; fish buyers are not always identifiable. Suggested language- salmon must be sold to a licensed processor; easier to administer. (tape reading 275 to 458)

Mr. Lewis Schnaper representing the Alaska Trollers Association testified in support of SB 200, stating that the class of fishermen who have made substantial investments, 50 to 75 trollers with freezing capacities would be impacted; less economical to freeze but the quality speaks to the need. The Canadians recognize the value of sea frozen salmon, and it is the most effective use of a fishermans fuel.

Senator Pat Rodey offered proposed language; frozen salmon must be transferred to a licensed buyer.

Chairman Mulcahy moved we accept Senator Rodeys amendment and move SB 200 as amended. (tape reading 570)

Next on the agenda was SB 81 "An Act increasing the number of directors of the Alaska Housing Finance Corporation."

This bill was brought up for discussion; Senator Ziegler questioned the need for the bill, Senator Mulcahy offered background on the bill, and it was decided to hold the bill for later. (tape reading 580 to 630)

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Chairman Mulcahy offer background testimony, and addressed the constitutionality of the rights of minors to picket. Chairman Mulcahy proposed we move the bill and Senator Hohman recommended the bill move from Committee. (tape reading 634 to 653)

Next on the agenda was SB 282 "An Act relating to the legal rate of interest."

Mr. Fred Koken, First Vice-President of Foster and Marshall testified on SB 282, elaborating on the problems with SB 19 usury rates, and how the bill did not reflect the needs of his industry. The policy on interest at Foster & Marshall is dictated by competition in the industry. (tape reading 678 to 830)

Committee ~~action~~ moved SB 282 ~~was "Do Pass"~~

Next on the agenda was SB 172 "An Act relating to Unifor Commercial Code filings; and providing for an effective date."

There was no testimony and it was recommended that we hold the bill for further work. (tape reading 660 to 669)

The meeting was adjourned by Chairman Mulcahy at 3:50 P.M.

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

March 20, 1981

Mr. Thomas K. Williams, Commissioner
Department of Revenue
Pouch S
Juneau, Alaska 99811

Dear Commissioner Williams,

I have received your letter of March 17 concerning Senate Bill 200, amending the Fisheries Business Tax statutes. The goal of S.B. 200 is to clear up the problem of unfair taxation to salmon fishermen who freeze their catch rather than icing it before taking it in to sell. My staff and I worked with people in your department in trying to find a way to accomplish that in a way that would be as simple to administer and enforce as possible. We re-drafted the bill a number of times at the suggestions of your staff but were unable to come up with any solutions better than the approach used in the present version of S.B. 200.

I appreciate your suggestion of an amendment to help solve what you see as a compliance problem. Although I wish your department had come up with the idea back when we asked for input, I don't see a problem with the extra requirement you suggest, and feel that it could easily be added to the bill in committee.

My concern is over your comment that this bill amounts to writing an exemption into tax law which provides a benefit for a small select group of taxpayers. On the contrary, I am trying to protect a group of taxpayers who have been suffering due to inconsistent interpretations of statute by the Revenue Department.

Please look over the attached documents. The first is by Mr. Richard Kirkland, Audit Division, dated January 26, 1976. In that letter he states that "the fact that a fishing vessel preserves quality by feezing does not constitute a freezership or floating cold storage operation, and . . . would not be subject to the tax levied on freezerships."

The next document is Alaska Tax Ruling #77-3 which states that, "The fact that a vessel, rigged for fishing, freezes its catch instead of icing does not subject the vessel or its operators and owners to the statutes applicable to freezerships because the mere preservation of a catch until it can be processed does not constitute processing." This is signed by Gary Jenkins.

The third document is the "Cancellation of Alaska Tax Ruling #77-3" by Gary Jenkins. This was dated September 26, 1980, after the end of the 1980 salmon season. This document declares that the Revenue Department's interpretation of the statutes (regarding boats freezing their catch) has been in error for the last several years. In other words, anyone who had or was considering installing freezing capacity on their boat over the last few years and had contacted Revenue to find out what taxes they would be liable for, would have been told they would not have to pay the processor's tax. They would even have been told that an official, numbered tax ruling provided for their exclusion from the tax.

It would seem that a citizen is entitled to depend upon an opinion (in fact, a ruling) from officials of a state department concerning applicability of statutes. In this case after people fished for two seasons with the understanding that they were not being charged a tax, the Revenue Department reversed its interpretation of the tax law and rather than charging the tax from the date of the new interpretation sent notices to fishermen saying they owed back taxes for two seasons.

I strongly object to this tactic. The change in interpretation was Revenue's mistake and fishermen who acted in good faith on the Department's ruling should certainly not have to pay. It is unfair for a fisherman investing in freezing equipment to believe he is not liable for a tax and later be hit with an unexpected 5% tax right off his gross income. Knowledge of this factor would certainly play a part in the initial decision about whether to add the freezing capabilities.

I would like to know how many fishermen were sent these retroactive tax bills and how many have paid it. It seems to me that anyone who has paid it deserves a refund from the Revenue Department. Please let me know your feelings on this.

It is apparent that if the Revenue Department, itself finds the statutes vague enough in their definition of "processor" to completely reverse its own interpretation, then the statute is indeed unclear and needs some fine tuning. I do hope that S.B. 200 can help to clarify the law, make it fair to fishermen who are freezing their own catch but clearly not in the processing business, and will help avoid inconsistencies in interpretations from year to year which result in some expensive surprises.

Please let me know right away if my understanding of this whole situation is correct and what thoughts you have on the matter. As S.B. 200 is already scheduled for its first committee hearing on Monday, March 23, it is important that we get some answers and get to work on finding appropriate solutions to these problems.

Sincerely yours,

Dick Eliason
State Senator
District B

Enclosures

cc: Gary Jenkins, Director
Division of Audit

DE:sp

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM March 25, 1981

SUBJECT: Retroactive tax exclusion under SB 200 (Work Order Number 12-1263)

TO: Senate Labor and Commerce Committee
Attn: Michael Thill
Administrative Assistant

FROM: Linn H. Asper
Legislative Counsel

You have asked if there would be any legal difficulty in making the tax exclusion contained in Sec. 2 of SB 200 retroactive for the prior two years. It is my opinion that there is a substantial difficulty with retroactive application of the SB 200 tax exclusion. It is the same difficulty that was raised when the legislature was considering making refunds of state income taxes collected before 1979. I assume that a refund of fisheries business tax is contemplated for the excluded fishermen; otherwise there would be no purpose in making the exclusion retroactive. However, a refund of taxes already collected by the state is likely to be held to be an dedication of public funds to a private purpose, in violation of Article IX, section 6 of the state constitution.

The problem has been addressed by several courts in other jurisdictions where retroactive repeals of tax laws accompanied by refunds of the taxes validly collected have been attempted. The Washington Supreme Court, applying the Washington constitutional provisions which prohibit making gift of public money or credit (Article 8, sections 5 and 7), stated its holding succinctly:

> We are holding only that, where a tax ordinance has been previously validly enacted, it cannot be repealed retroactively, and the tax money heretofore collected validly cannot be refunded simply on the basis of the

> retroactive repeal. City of Yakima v. Huza, 407 P.2d 814, 820 (Wash. 1965); see also, Utz v. Newport, 252 S.W.2d 434 (Ky. 1952).

The court did note that the "situation might well be treated differently if . . . some duty existed on the part of the city to refund part of the taxes." 407 P.2d at 820.

The Wisconsin Supreme Court, construing Wisconsin's constitutional requirement that public funds be spent only for a public purpose, reached the same conclusion -- that a refund of validly collected taxes would be an appropriation of public monies to private ends and, thus, constitutionally impermissible unless there exists a moral obligation to support the refund. State v. Giessel, 64 N.W.2d 421 (Wis. 1954). The court noted the following cases which found refunds of taxes to be permissible:

> Will of Heinemann, 230 N.W. 698 (Wis. 1930) (refund of inheritance tax voluntarily paid under a statute imposing the tax which was later declared unconstitutional and void by the United States Supreme Court); State ex rel. Adams v. Crawford, 121 A. 800 (Conn. 1923) (refund of a portion of liquor license fees covering that portion of the license period when the licensees were prohibited from selling intoxicating liquors under their licenses because of the enactment of World War I federal prohibition law); Raleigh County Bank v. Sims, 73 S.E.2d 526 (W. Va. 1952) (refund of business and occupation taxes paid pursuant to a tax statute later declared to be unconstitutional and void, when such claim for refund was already barred by the statute of limitations).

In the situation presented in SB 200 there seems to be no compelling moral duty to refund the taxes.

There are California cases which indicate that a refund of taxes before those taxes have become due is permissible. The California Supreme Court in In re Skinker's Estate, 303 P.2d 745 (Calif. 1956) stated:

> "The Legislature cannot by a subsequent act increase or decrease the rate, remit the tax, or in any way surrender, impair or limit rights that have become fixed. (In re Estate of Stanford, 126 Cal. 112, 118 et seq., 54 P.

259, 58 P. 462, 45 L.R.A. 788; In re Estate of Rossi, 169 Cal. 148, 149, 146 P. 430.)

"Where a tax has become due, a subsequent act of the Legislature reducing the tax by reason of the change in the exemptions, tax rates, or for that matter in any way, is held to be a gift of state monies and is prohibited by Article IV, section 31, of the California Constitution.

"Retroactive effect of such legislation is therefore prohibited." (Footnotes omitted)

In the cited cases it is important to determine the time when the rights relating to the taxes become fixed. With regard to the fisheries business tax it is clear that the taxes are due at the time the fish are processed (AS 43.-75.015). This means that the taxes collected or due under AS 43.75 in prior years have been committed to the state and may not be refunded.

It is my conclusion that making the exclusion stated in SB 200 retroactive would not permit the refund of taxes paid by excluded persons and would therefore be a meaningless gesture.

LHA:ljb

Introduced: 2/23/81
Referred: Labor & Commerce
and Finance

IN THE SENATE BY ELIASON

SENATE BILL NO. 200

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - FIRST SSION

A BILL

For an Act entitled: "An Act relating to the fisheries business tax (AS 43.-75.015); and providin, for an effective date."

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

* Section 1. AS 43.75.015(c) is amended to read:

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource, or a person who purchases frozen salmon from a person excluded by AS 43.75.017 from liability for the tax, is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may not deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses, but shall include that value as part of the value of the fishery resources processed.

* Sec. 2. AS 43.75 is amended by adding a new section to read:

Sec. 43.75.017. EXCLUSION FROM FISHERIES BUSINESS TAX. (a) A person is not processing a fisheries resource under AS 43.75.015 when salmon are frozen aboard a fishing vessel if

(1) the vessel is operated as a commercial fishing vessel under a valid commercial fishing license;

(2) the salmon are not processed beyond heading, gutting or cleaning, freezing and glazing; and

(3) the salmon which are frozen were caught by the vessel.

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

(4) the salmon are sold or transferred to a buyer licensed under AS 43.80.000.

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91 SLA 1960;
ch 144 SLA

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1978, provides:
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1978.

Editor's note. — The repealed section derived from § 9, ch. 43, SLA 1949. Subsection (a) was repealed by § 4, ch. 94, SLA 1976, and subsection (b) was repealed by § 5, ch. 144, SLA 1978.

Sec. 43.70.080. Disposal of money. All money collected by the department under this chapter shall be deposited in the general fund. (§ 11 ch 43 SLA 1949; am § 4 ch 155 SLA 1962; am § 74 ch 69 SLA 1970; am § 4 ch 144 SLA 1978)

Effect of amendment. — The 1978 amendment deleted the former second sentence, which read "The Department of Revenue shall refund to each organized borough and each city of any class 60 per cent of the money collected in the local government."

Sec. 43.70.100. Penal provisions.
Repealed by § 46 ch 113 SLA 1980.

Cross reference. — For present provisions concerning criminal penalties, see AS 43.05.290.

Editor's note. — The repealed section derived from § 10, ch. 43, SLA 1949.

Chapter 75. Fisheries Taxes.

Article
1. Taxes and Licenses (§§ 43.75.010 — 43.75.055)
4. General Provisions (§§ 43.75.130 — 43.75.140)

Editor's note. — As to legislative findings and purpose relating to AS 43.75 see §§ 1 and 2, ch. 79, SLA 1979 in the 1979 Temporary and Special Acts and Resolutions and editor's note following AS 43.75.011.

Article 1. Taxes and Licenses.

Section
10. [Repealed]
11. Fisheries business license
15. Fisheries business tax
30. Filing return and payment of tax
50. [Repealed]
55. Security for collection of taxes

Sec. 43.75.010. Fisheries business licenses.
Repealed by § 13 ch 79 SLA 1979.

Cross reference. — For present provisions covering the subject matter of this repealed section, see AS 43.75.011.

Editor's note. — The repealed section derived from § 1, ch. 82, SLA 1949; § 1, ch. 113, SLA 1951; § 1, ch. 146, SLA 1962; §§ 1, 2, ch. 84, SLA 1967.

State license tax on salmon canneries with its revenue sharing provision is not different in kind from general gross receipts tax of Alaska Business License Act. — See Liberati v. Bristol Bay Borough, Sup. Ct. Op. No. 1755 (File No. 3365), 584 P.2d 1115 (1978).

There is no general prohibition against like municipal and state taxes. Liberati v. Bristol Bay Borough, Sup. Ct. Op. No. 1755 (File No. 3365), 584 P.2d 1115 (1978).

Sec. 43.75.011. Fisheries business license. A person engaging or attempting to engage in a fisheries business shall first apply for and obtain a license as provided in AS 43.75.020. (§ 3 ch 79 SLA 1979)

Editor's note. — Section 1, ch. 79, SLA 1979, provides: "FINDINGS. The legislature finds that the state has

"(1) funded and implemented several fisheries-related development programs;

"(2) funded and implemented fishery loan programs;

"(3) increased its fishery protection and management program;

"(4) funded and implemented a limited entry program; and

"(5) embarked on a program of encouraging the development of a bottom fishing industry."

Section 2, ch. 79, SLA 1979, provides: "PURPOSE. The purposes of this Act are to

"(1) insure that the state is able to continue its efforts toward overall fisheries-related development programs by raising additional revenue to pay for the programs;

"(2) make the imposition of the fisheries tax more uniform among fisheries businesses; and

"(3) provide funding for the development of new fisheries."

Sec. 43.75.015. Fisheries business tax. (a) A person engaged in a fisheries business is liable for and shall pay the tax levied by this section on the value of each of the following fisheries resources processed during the year at the rate set out after each:

(1) salmon canned at a shore-based cannery — four and one-half per cent;

(2) salmon processed by a shore-based fisheries business, except salmon for which the tax is due under (1) of this subsection, and all other fisheries resources processed by a shore-based fisheries business — three per cent;

(3) fisheries resources processed by a floating fisheries business — five per cent.

(b) Instead of the taxes levied by (a) of this section, a person engaged in a fishery business which includes processing a developing commercial fish species is liable for and shall pay a tax equal to

(1) one per cent of the value of the developing commercial fish species processed by a shore-based fisheries business during the year; and

(2) three per cent of the value of the developing commercial fish species processed by a floating fisheries business during the year.

(c) A person engaging or attempting to engage in a fisheries business who first actually and physically processes the fishery resource is liable for and shall pay to the department the entire tax imposed by this section. In determining this tax liability, the person may not deduct from the value of the fishery resources processed the value of fishery resources that are canned or processed for other fisheries businesses, but shall include that value as part of the value of the fishery resources processed. (§ 3 ch 79 SLA 1979)

Sec. 43.75.030. Filing return and payment of tax. (a) A person subject to the tax shall file a return stating the value of fisheries

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Sec. 43.75.
Repealed by
ch 113 SLA 1

Cross refere
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AS 43.05.220.
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43.05.290.

Editor's note
derived from § 4,
17, SLA 1968; §
§ 4, ch. 94, SLA
1976; § 7, ch. 79

Sec. 43.75
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firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting

law at 12:01 a.m., on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 202 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965)

Exception in common law as to computation of person's age.—There counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430.—In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in comput-

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 200
Title An Act Relating to the Fisheries Business Tax
Requested by Senate Labor and Commerce Committee Date 3/3/81

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

There would be no change in revenues due to transfer of the tax liability from the salmon catcher/processor to the salmon purchaser.

IV. DATE 3/3/81 PREPARED BY Robert W. Elliott
AGENCY Revenue
PHONE 465-2309

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

33-001 (Rev. 12/80

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 200

Title An Act relating to the fisheries business tax

Requested by Senate Labor and Commerce Committee Date Feb. 24, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Audit Division

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

EXPENDITURES (Thc of Dollars) NONE

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) NONE

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS NONE

FULL TIME						
PART TIME						
TEMPORARY						

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

See the attached memorandum to R. D. Stevenson dated March 9, 1981.

IV. DATE March 9, 1981 PREPARED BY Gary L. Jenkins

AGENCY Audit Division

PHONE 465-2320

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

SB

210

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M

March 27, 1981

SUBJECT: Appropriation based on race distinction (SB 210)

TO: Senate Labor and Commerce Committee

FROM: Billy G. Berrier
Director
Division of Leg . Services

You have asked whether an appropriation based on race distinction violates the equal protection clause of the constitution.

Any legislation based on race distinction is in a suspect category and may be subject to strict scrutiny by the courts. The classification must serve a compelling state interest and the means selected must be narrowly drawn to fulfill the governmental purpose. The courts have not clearly articulated guidelines to determine the constitutionality of specific legislation.

There are very many cases dealing with aspects of this problem. An analysis of these would serve little purpose in this opinion since the United States Supreme Court has recently spoken in this area in the case of Fullilove v. Kluznick, 65 L.Ed.2d 902 (48 L.W. 4979) (1980). In this case there was a total of five opinions. The reasoning in three of the opinions, with a total of six justices, found the classification constitutional while the reasoning of two opinions, with three justices, found the classification unconstitutional. Together these opinions reflect the different approaches to the case.

Two justices view racial classification as always unconstitutional.

The other justices are of the opinion that racial classifications may be used in certain circumstances but have different views as to what circumstances justify a racial classification. All agree that the legislation must be an attempt to remedy past discriminatory practices.

The issue in that case was whether the minority businesses set-aside of the Public Works Employment Act of 1977 was constitutional. The set-aside requirement that ten percent of all public works contracts be awarded to minority business, defining minority group members as "citizens of the United States who are Negroes, Spanish-speaking, Orientals, Indians, Eskimos and Aleuts."

Of those justices finding the set-aside constitutional, Justice Powell took the strictest view. He stated:

> "In the history of this Court and this country, few questions have been more divisive than those arising from governmental action taken on the basis of race. Indeed, our own decisions played no small part in the tragic legacy of government-sanctioned discrimination. See Plessy v. Ferguson, 163 U.S. 537 (1896); Dred Scott v. Sanford, 19 How. 393 (60 U.S.) (1857). At least since the decision in Brown v. Board of Education, 347 U.S. 483 (1954), the Court has been resolute in its dedication to the principle that the Constitution envisions a Nation where race is irrelevant. The time cannot come too soon when no governmental decision will be based upon immutable characteristics of pigmentation or origin. But in our quest to achieve a society free from racial classification, we cannot ignore the claims of those who still suffer from the effects of identifiable discrimination.
>
> "Distinguishing the rights of all citizens to be free from racial classifications from the rights of some citizens to be made whole is a perplexing, but necessary, judicial task. When we first confronted such an issue in Bakke, I concluded that the Regents of the University of California were not competent to make, and had not made, findings sufficient to uphold the use of the race-conscious remedy they adopted. As my opinion made clear, I believe that the use of racial classifications, which are fundamentally at odds with the ideals of a democratic

> society implicit in the Due Process and Equal Protection Clauses, cannot be imposed simply to serve transient social or political goals, however worthy they may be."

He stated that the essential elements to consider were:

(1) the efficacy of alternative remedies;

(2) the planned duration of the remedy;

(3) the relationship between the percentage of workers to be employed and the percentage of minority group members in the relevant population or work force; and

(4) the availability of waiver provisions if the hiring plan could not be met.

He added "a race-conscious remedy should not be approved without consideration of an additional crucial factor -- the effect of the set-aside on innocent third parties."

Training and planning employment is one of the least intrusive remedies available and the program is limited in duration. Since it does not set aside jobs, the ratio provisions and the availability of waiver provisions would not be a factor. The effect on innocent third parties of exclusion from job training is clearly less than the effect of a contract percentage approved in Fullilove.

In my opinion an appropriation for the purpose of a comprehensive Southeast Alaska Native training program would be found constitutional under any analysis in Fullilove, which found the minority business set-aside constitutional.

BGB:ljb

Bill No. Senate Bill 210

Date March 2, 1981

Title An Act making an appropriation to the Department of Labor for a contract with the Central Council Tlingit and Haida Indian Tribes of Alaska for a comprehensive Southeast Alaska Native training and employment plan; E.D.

Contact: Glenn Lundell
465-2700

The bill does not contain sufficient information to develop a position paper. It will be necessary to review a copy of the proposal to determine if this effort could be coordinated with other employment service activities, would create a duplication of effort, or would benefit the unemployed or underemployed.

Pursuant to the Alaska Manpower Program Policy statement made by the Governor on January 24, 1976, training and employment programs are to be reviewed and coordinated by the State Manpower Services Council. It is recommended that the proposal be reviewed by that body and appropriate recommendations be made to legislative committees. The next meeting of that Council will be held in Juneau on April 2 and 3, 1981.

It is possible that an appropriation based on race distinction would violate the equal protection clause of the U. S. Constitution. A legal opinion should probably be requested.

POSITION PAPER/Department of Labor

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 210:

$253,000 is appropriated from the general fund to the Department of Labor for a contract with the Central Council Tlingit and Haida Indian Tribes of Alaska for a comprehensive SE Alaska Native Training and employment plan. Takes effect immediately.

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.56.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes

ing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday. and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965)

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430.—In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. Mahan v. Sparks, 10 Alaska 292 (1942).

SB

224

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 224: by Sturgulewski

After a tenant terminates his rental, property or money (held as security) may be applied by the landlord for payment of accrued rent or damages (AS 34.03.120).

Accrued rent and damages must be itemized by the landlord in a written notice and delivered with the amount due to the tenant no later than 30 days after the following:

1. Termination of the tenancy
2. Delivery of possesion of the tenant
3. Notice to the landlord of an address to which notices to the tenant may be sent.

"DAMAGES" do not include wear resulting from ordinary use of the premises.

JUNEAU TENANTS COALITION
419 6TH ST. #232
JUNEAU, AK 99801

March 13, 1981

Michael Thill
Office of Sen. Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

Thank you for the opportunity to comment on SB 224. I would like to have the 14-day limit retained. With damage deposits of $150 to $500 not uncommon, there should be as short a delay as possible when returning deposits. The 14-day limit may, on rare occasions, be difficult to comply with. Compare this with the tenant's hardship of not having access to this money. Added to moving expenses the tenant might have two security deposits paid out simultaneously. Many tenants live on fixed, low, or moderate incomes and may have to "do without" necessities during the moving period. To be deprived of their security deposit for a full month will be a true hardship to tenants. SB 224, as now worded, would cause hardship to many Alaskans and would benefit local or absentee landlords only on rare occasions.

Although no great need to modify other portions of the statutory section exists, we have no opinion as to other proposed changes in the bill.

Sincerely,

JUNEAU TENANTS COALITION

Robert J. Sylvester, President

STATE
of ALASKA

MEMORANDUM

TO: Senator Bob Mulcahy
Pouch V
Juneau, AK 99811

DATE: March 18, 1981

FILE NO:

TELEPHONE NO:

FROM: Wilson L. Condon
Attorney General

SUBJECT: SB 224, Landlord/Tenant Amendment

By: Robert A. Evans, Assistant Attorney General
Consumer Protection Section
1049 W. 5th Avenue, Suite 101
Anchorage, AK 99501

You asked the Consumer Protection Section to comment on SB 224, and this memo responds to your request.

It is in the best interests of both landlord and tenant to resolve the amount of the security deposit to be returned or withheld as soon as possible after termination of the tenancy. The interest of the landlord is served by a prompt inventory of the residence, determination of damages, and the ability to re-rent the premises to mitigate loss or damage, if any.

The interest of the tenants is served by quick resolution of any problems and timely return of their security deposit. The moving tenants must usually seek housing elsewhere and most likely will be required to make another deposit. The dual deposit will be particularly onerous on lower income tenants.

In fact, the dual deposit situation will work to the detriment of some landlords. When a lower income tenant is looking for a new apartment, he/she will probably have to request that the new landlord be either wholly or partially unsecure as far as the security deposit goes. As any landlord knows, once a tenant is in place without having paid a security deposit or a partial deposit, it is difficult to obtain the deposit or balance due.

The conditioning of the landlord's return of the security deposit or notice upon the tenants being required to give notice "to the landlord of an address to which notices to the tenant may be sent" seems unwise for the following reasons:

1. The tenant is required to come up with two deposits, one for his/her old apartment, and one for his/her new apartment. Such a condition would cause a great hardship on many people.

2. The language of the amendment makes the giving notice of a forwarding address mandatory on the tenant and only permissive on the landlord. The specific language of the amendment states that the tenant must give notice to the landlord of a forwarding address. The landlord on the other hand may send notices. The effect of this mandatory requirement is to deny the tenant his security deposit if he fails to give notice. However, if the landlord fails to give notice or return the security deposit, the permissive word "may" in the amendment relieves the landlord of any legal obligation and denies the tenant of any legal right.

It may be useful to have the tenant give an address to which notices can be sent, but the requirement of forwarding address should definitely not be a condition precedent to the return of the security deposit or notice of rent due and damages. A tenant may be travelling or may not immediately know his new address. The statute could be amended to state that the tenant should give a forwarding address, but not make it an absolute requirement for security deposit returns or notice.

The amendment, though seemingly simple, could have a significant effect on the balance of rights and duties of landlords and tenants. For this reason, I think that any attempt to alter the existing uniform residential landlord/tenant act should be in a much more thorough and comprehensive manner.

op

cc: Ron Lorensen, Deputy Attorney General
cc: Sarah Kavasharov, Assistant Attorney General
cc: Don Clocksin, Representative

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

(1) insufficient credit standing or financial responsibility;

(2) number of persons in the household;

(3) number of persons under 18 years of age in the household;

(4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;

(5) proposed maintenance of pets;

(6) proposed commercial activity; or

(7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

Section
70. Security deposits; prepaid rent
80. Disclosure
90. Landlord to supply possession of the dwelling unit
100. Landlord to maintain fit premises
110. Limitation of liability

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

Article 4. Tenant Obligations.

Section
130. Rules and regulations

Sec. 34.03.120. Tenant to maintain dwelling unit.

Cleanup within 10 days of notice of noncompliance. — Where the tenants cleaned up the premises within 10 days from the date they were served with notice of noncompliance with the rental agreement, the rental agreement could not be terminated for that reason. Vezar v. Francis, Sup. Ct. Op. No. 1634 (File No. 3173), 579 P.2d 1056 (1978).

Sec. 34.03.130. Rules and regulations.

(c) A mobile home park operator may determine by rule or regulation the style or quality of the equipment, including but not limited to underskirting and tie-downs, to be purchased by the tenant from the vendor of the tenant's choice; however, the operator may not require that the equipment be purchased from the operator.
(am § 4 ch 138 SLA 1976)

Effect of amendment. — The 1976 amendment added subsection (c).

As the rest of the section was not affected by the amendment, it is not set out.

Legislative history report. — For report on ch. 138, SLA 1976 (SCS CSHB 829 am S [re-engrossed]), see 1976 Senate Journal, p. 1368.

Article 5. Tenant Remedies.

Sec. 34.03.160. Noncompliance by the landlord: General.

Stated in McCall v. Fickes, Sup. Ct. Op. No. 1335 (File No. 2611), 556 P.2d 535 (1976).

Sec. 34.03.180. Wrongful failure to supply heat, water, hot water or essential services.

Cited in McCall v. Fickes, Sup. Ct. Op. No. 1335 (File No. 2611), 556 P.2d 535 (1976).

Article 6. Landlord Remedies.

Section
225. Limitations on mobile home park operator's right to terminate

Sec. 34.03.220. Noncompliance with rental agreement: Failure to pay rent.

Ten-day period dates from receipt of notice. — The period of 10 days in which to cure breaches in the rental agreement should be 10 days after receipt of the notice

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260

LOWER KUSKOKWIM COAST CORPORATION

GENERAL DELIVERY
KIPNUK, ALASKA 99614
Ph. 896-5811

Resolution # 81-02

Whereas, The Lower Kuskokwim Coast Corporation is an non profit organization merged in four villages of Kipnuk, Kwigillingok, Kongiganak, and Tuntutuliak, and;

WHEREAS; The Lower Kuskokwim Coast Corporation is an non profit organization and cannot get any operating budgets from profits, and;

WHEREAS; The Board and Trustees do herby request that the legislative may propose the State to grant Lower Kuskokwim Coast Corporation for its annually operation in sum of fifty thousand annually;

THEREFORE; Be It Resolved that the Lower Kuskokwim Coast Corporation may be granted annually as requested for its operation.

Passed this day of 1/14/81

Paul R Kiunya Sr
President

Attest;

James Paul Sr.
Board member

Board member

Board member

Board member

L.K.C.C. Project Director

firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.2... For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 3, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes law at 12:01 a.m., on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430. In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal. Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. Mahan v. Sparks, 10 Alaska 292 (1942).

I. REQUEST

Bill/Resolution No. SB 260

Title Special appropriation for a grant to Lower Kuskokwim Corporation

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Economic Development

BRU, Program, or Subprogram(s) Affected Economic Enterprise - Industrial Projects

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES						
200	TRAVEL						
300	CONTRACTUAL						
400	COMMODITIES						
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.	50.0					
	TOTAL	50.0					

FUNDING (Thousands of Dollars)

GENERAL FUND	50.0					
FEDERAL FUNDS	0					
OTHER (Specify Fund Source)	0					

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE 3/13/81 PREPARED BY Richard H. Eakins

AGENCY Commerce & Economic Development

PHONE 465-2018

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33 001 (Rev. 12/80

SB

277

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 277:

Sec 1: This act provides aircraft owners and operators with access, thru the establishment of a public insurance corporation, to adequate insurance against liability and hull damage.

Sec 2: AS 21 is ammended by adding a new chapter; Chapter 86

ARTICLE 1 AVIATION INDEMNITY CORPORATION OF ALASKA

21.86.010 Corporation established; Aviation Indemenity Corporation of Alaska is established as a public corporation, having a legal existence independent and separate of the State. Obligations issued by the corporation do not constitute a debt, liability, or obligation and credit of the State.

21.86.020 Establishment of a board of directors appointed by the governor and confirmed by the legislature. Membership:

(1) one representative from an air carrier, subject to FAA routes

(2) two representatives, certified by the Alaska Transportation Commission as air taxi operators;only one may be operating from a business based in a city having over 100,000 population, and both must be insured under this chapter when insurance becomes available.

(3) two reps from the aviation community not associated with commercial aviation enterprise represented in (1) or (2) of this sub-sec.

(4) two representatives of the insurance industry

(5) two members of the general public who have no financial interest in the aviation or the insurance business.

The term of office for each director is three years;

When a directors term expires, the governor shall appoint a successor form the same class as the director whose term has expired. In the event of resignation, death, or inability to serve , the governor shall appoint a successor from the same class as the terminated director for the unexpierd term.

SB 277 cont.

Provides for a three year term of office;

Within 90 days of the first meeting of the board, the director shall submit to the Div of Insurance a plan of operation, proviidng for fair and reasonable administration of the corporation.

Outlines powers and duties of the board including standards of acceptable risks, the issuance of contracts indemnifying owners and operators against loss by reason of liabilty for covered claims for an act of ommission in the operation of an aircraft in this State, and agreeing to tender on their behalf a defense to a covered claim in a civil action. Subject to approval of the Div of Insurance, the board shall charge a premium for the protection provided. The board shall carry out the obligations of its contracts, and shall maintain and report information concerning claims for those it insures.

Board may exclude an individual based on risk factors, but may not exclude an application because of his classification.

Provides limits on liability for policies issued; insurance contract shall cover the defense against but not the punitive damages.

Annual reporting to the director of information on claims.

Dir. of the Div of Ins. may roder termination of the corporation based on public hearings, and a determination that the continuation would result in substantial underwriting loss.(unless excessive premiums)

The corporation is exempt from tax for the first 5 years, however after that period there will be a premium tax.

Outlines rate categories for general and commercial aviation.

Provides for an assessment on insureds, corporation may levy an assesment on insureds holding policies the previous year.

Provides for refunds to insureds if premiums exceed claim and underwriting expenses for the year.

Outlines payment of premiums and cancellation of insurance.

Establishes aviation revolving fund (loan) in the Department of Commerce and Econ. to be adminsiterd by the Div of Insur.Loans may be made from the fund to the corporation upon certification of the director, but loans are not to exceed 30 million at any time.Loans shall be repaid to the fund in annual installments of at least 25% of the excess of the premiums earned, reserves, expenses, and assessments made by the corporation, if any, and interest shall be paid at a rate of 7 percent.

FUTURE OF AVIATION INSURANCE IN ALASKA

Before one can predict the future of Aviation Insurance, one must look at its past.

Prior to 1970 there were no Domestic Insurors accepting Aviation Insurance in Alaska. From 1970 through 1977 several notable Domestics entered the State including, but not limited to, such well known Insurors as Insurance Company of North America, Ranger, Pan American, Insurance Company State of Penn. and U.S.A.I.G. Without exception, all lost money and withdrew from the State.

Prior to 1970 and since 1978 most of the Aviation Insurance in Alaska has been provided by Lloyds of London and British Companies who have continually provided a market for the aviator since the first airplane came to Alaska.

During the 1970's aviation rates were steadily decreasing year after year even though as a Nation we were experiencing inflation and as a State we were experiencing an increase in airplanes, pilots and, sadly, a sharp increase not only in accidents, but also an increase in the fatality rate. In 1978 one hundred fifty-eight people were killed in airplanes with the average court award and/or settlement per person being $450,000. each or $71,000,000. That figure does not include the dollars spent on hull losses.

Rates started increasing in 1979 after the 1978 figures were known. In 1979 the fatality record was better, but over the past five years Alaska has averaged more than 50 fatalities a year at an average cost of $450,000. per death or an annual cost of $22,500,000. just to pay liabilities. As a result, many pilots and Air Taxi operators have experienced sharp and heavy increases in the cost of their insurance. Those who have had accidents the past five years are being charged more than those who have had no accidents. But everyone's rates are up and up a lot.

Newspaper articles have appeared recently accusing Lloyds of London of having a monopoly and "fixing" prices. I have been somewhat dismayed to see these things in print and even more dismayed as to who is doing the accusing.

(1) Many of those doing the most complaining have been involved in accidents in the past five years and many have had a fatal crash. The statistics are a matter of public record.

(2) Lloyds of London is a Market Place, not an Insuror, so how can it be a monopoly?

(3) The British Companies are also a Market Place made up of many Insurors.

(4) We are seeing a wider variance in rates today than we've seen in years, i.e. the ones with a repeated accident record are rated accordingly. Those with none or one are also rated accordingly.

(5) There is stiff competition in the World Market, but there is no rate cutting.

Recently Senator Eliason had introduced into the Senate Senate Bill 277 which would create a State Funded Aviation Insuror. The bill asks for $30,000,000. to fund the Insurance Company. The Insurance Company would be assessible. That means anytime within three years from date your policy expires you could be assessed up to 50% of what you paid in premium. S.B. 277 does not discuss rate levels, but in verbal discussion proponents of this bill acknowledge they probably could not provide insurance cheaper. So you would trade what you now have, i.e. a guaranteed cost, for an unknown cost, and by asking the State to subsidize your insurance do, at the same time, subject yourself to public scrutiny for you cannot expect public funds without accepting public involvement in your day to day flying life.

There are many arguments against Senate Bill 277, and I'm confident your Broker and Insuror is ready to discuss in detail with you all of the ramifications of it.

As for the future of Aviation Insurance in Alaska

(1) It will always be available in the free market at price;

(2) When the accident rate declines and thus loss experience declines, rates will decrease;

(3) There is at present three separate Domestic Insurors considering re-entering the State to provide Aviation Insurance. However, it is not their intent to cut rates, for the past 10 year's statistics prove that rate levels for that decade were hopelessly inadequate.

(4) But some of you were not here in the sixties, but those of you who were realize that the rate levels of today are the rate levels of the sixties. Your hull values are higher, your seating capacity is greater, and with the average court award being $450,000. per person, most of you are carrying higher limits of liability as you should.

I would suggest that instead of "Hanging the wrong man" i.e. the Insurors, that each of you acknowledge that the basic problem is accidents, not insurance. Pilots wreck airplanes and hurt people. Insurors pay for them, so we all pay for them.

Insurance is a pooling of dollars by the many to pay the losses of the few. But if the dollars out exceed the dollars in, then rates must be increased, and that fact does not change whether it is Insurors as you now know them or a State owned Insurance.

Here are some sobering statistics: The State of Alaska has one-eighth of 1 percent of the United States population, 1.3 percent of the pilots, 2.9 percent of the aircraft and 5.6 percent of the accidents. Alaskan aircraft are involved in 4.4 percent of the fatal accidents. Air taxi operators here rack up 22.6 percent of American accidents among that group, and 15 percent of the air-taxi fatalities.

Instead of complaining about rates and asking the State to subsidize the accident and fatality rate by forming an Insurance Company, ask

your legislator to:

(a) Kill Senate Bill 277 - and in its place -

(b) Put the $30,000,000. to work doing what National Transportation Safety Board AAS-80-3 recommends in its Special Report on Safety in Alaska.

for in so doing all citizens would benefit in a reduction in loss of life and property, and each of you will ultimately benefit in reduced insurance costs as a result of safety.

Submitted by

Lois Clary

Lois Clary is a licensed insurance agent who has been actively involved in all lines of insurance for 32 years and insurance in the State of Alaska for 20.

Alaska Air Carriers Association

TESTIMONY

OF

TULINDA DEEGAN

PRESIDENT

ALASKA AIR CARRIERS ASSOCIATION

ON

S.277 - AN ACT TO
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

4790 Business Park Boulevard • Suite 4 • Anchorage, Alaska 99503 • (907) 272-5933

TESTIMONY
OF
TULINDA DEEGAN
PRESIDENT
ALASKA AIR CARRIERS ASSOCATION

ON

S.277 - AN ACT ON
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

I AM PLEASED TO PRESENT THE VIEWS OF THE ALASKA AIR CARRIERS ASSOCIATION (AACA) ON SENATE BILL 277 - AN ACT ESTABLISHING THE AVIATION INDEMNITY CORPORATION OF ALASKA. WITH ME TODAY IS D. CRAIG CLARK, PRESIDENT OF ANCHORAGE AIRWAYS AND CHAIRMAN OF THE ALASKA AIR CARRIERS ASSOCIATION.

THE ALASKA AIR CARRIERS ASSOCIATION, FOUNDED IN 1966, REPRESENTS AIR CARRIERS ENGAGED IN THE TRANSPORTATION OF PASSENGERS, CARGO AND MAIL. THE MEMBERSHIP INCLUDES CERTIFICATED AIR CARRIERS, COMMUTER AND AIR TAXI OPERATORS. THE KEY PURPOSE OF THE ASSOCIATION IS TO FOSTER AND PROMOTE AN ENVIRONMENT THAT ASSURES SAFE AIR TRANSPORTATION IN THE STATE OF ALASKA.

THE AACA BOARD OF DIRECTORS PASSED THE FOLLOWING RESOLUTION AT THEIR APRIL 8, 1981 MEETING:

WHEREAS, ESCALATING INSURNACE RATES HAVE BECOME A MAJOR PROBLEM OF THE AIR CARRIER INDUSTRY IN ALASKA, THE ALASKA AIR CARRIERS ASSOCIATION,

RESOLVES, TO SUPPORT DISCUSSION OF PROPOSALS IN S.277 TO ESTABLISH AN ALTERNATIVE IN THE INSURANCE MARKET PROVIDED THAT SECTION 21.86.110, ASSESSMENTS ON INSUREDS, BE AMENDED TO DELETE THE 50% SPECIAL ASSESSMENT AND THAT SECTION 21.86.086, TERMINATION, BE AMENDED TO INCLUDE AT LEAST A 30 DAY NOTICE PERIOD TO INSURED ON DISSOLUTION OF THE CORPORATION.

THE MEMBERS OF THIS COMMITTEE ARE WELL AWARE OF THE IMPORTANCE OF AVIATION IN ALASKA. AIR TRANSPORTATION IS ESSENTIAL TO ALASKA. OUTSIDE OF MAJOR POPULATION CENTERS THERE ARE VIRTUALLY NO ROADS. ALMOST EVERYTHING THAT IS REQUIRED FOR SURVIVAL, INCLUDING FOOD, CLOTHING AND MEDICINE MUST BE BROUGHT IN BY AIR.

INSURANCE PREMIUMS FOR AIRCRAFT HULL INSURANCE AND AVIATION LIABILITY INSURANCE HAS JUMPED 100 TO 200 PERCENT THIS YEAR. ALL OPERATORS HAVE FACED THESE COST INCREASES. AIR CARRIERS ARE FORCED TO PASS THIS INCREASE ON TO CONSUMERS. ATTACHED TO OUR TESTIMONY ARE RECENT ARTICLES THAT OUTLINE THE PROBLEM.

THE ALASKA AIR CARRIERS ASSOCIATION COMMENDS THE SENATE FOR ADDRESSING THIS CRITICAL ISSUE AND IS CONFIDENT THAT THE HEARINGS OF THIS COMMITTEE WILL BE A MAJOR STEP IN RESOLVING THE PROBLEM OF HIGH AVIATION INSURANCE RATES IN THE STATE OF ALASKA.

A REVIEW OF SOME FACTS ON THE CURRENT AVIATION INSURANCE INDUSTRY IS IN ORDER. SINCE AMERICAN INSURANCE COMPANIES PULLED OUT OF ALASKA IN 1968, THE PRIMARY MARKET FOR AVIATION COVERAGE IS LLOYDS OF LONDON. ACCORDING TO THE ALASKA DIVISION OF INSURANCE THIS MARKET REPRESENTS 90% OF ALASKAN AVIATION INSURANCE.

QUOTATIONS IN THE CURRENT MARKET ARE LIMITED TO THE INITIAL BROKER. THIS MEANS THAT AN AIR CARRIER CANNOT "SHOP AROUND" FOR A BETTER RATE. STATISTICS ON THE PREMIUM AND LOSS LEVELS EXPERIENCED BY LLOYDS IS SKETCHY AT BEST AND ARE NOT COMPLETE ENOUGH TO DRAW REALISTIC CONCLUSIONS.

MEMBERS OF THIS COMMITTEE WILL HEAR TESTIMONY THAT THE CURRENT HIGH INSURANCE RATES ARE PART OF A CYCLE. PROPONENTS OF THE CYCLE THEORY CONTEND THAT HIGH INSURANCE RATES WILL DRAW DOMESTIC INSURANCE COMPANIES BACK INTO THE MARKET AND THROUGH COMPETITION RATES WILL COME BACK DOWN.

WHEN RATES GO TOO LOW THEN THE DOMESTIC COMPANIES WILL PULL OUT OF THE MARKET AS THEY DID IN 1968.

THE DEVASTATING IMPACT THIS CYCLE WOULD HAVE ON AIR TRANSPORTATION IN ALASKA IS OF GREAT CONCERN TO THE

ALASKA AIR CARRIERS ASSOCIATION. SUCH A CYCLE WOULD MAKE LONG TERM FINANCIAL PLANNING EXTREMELY DIFFICULT. THE EXISTENCE OF AN UNDERWRITING FIRM IN ALASKA MAY SMOOTH OUT THE PEAKS AND VALLEYS IN SUCH A CYCLE.

THE AIR CARRIERS IN THE STATE OF ALASKA UNDERSTAND THAT THE CONCEPT OF INSURANCE IS A POOLING OF DOLLARS BY A LARGE GROUP TO PAY FOR THE LOSSES OF A FEW. ONE CLEAR WAY TO IMPROVE ALASKAN AVIATION INSURANCE RATES IS TO IMPROVE THE ALASKAN AVIATION ACCIDENT RATE. A RECENT NATIONAL TRANSPORTATION SAFETY BOARD STUDY ON AIR TAXI SAFETY IN ALASKA STATES "ALASKA . . . HAS AN AIR SAFETY PROBLEM . . . (A)BOUT 30 PERCENT OF ALL AIR TAXI ACCIDENTS IN THE UNITED STATES OCCURRED IN ALASKA, AND THEIR RATE OF OCCURRENCE WAS FOUR TIMES THAT OF THE REST OF THE UNITED STATES." THE ALASKAN FEDERATION OF NATIVES (AFN) ALSO RECOGNIZED THE NEED FOR IMPROVED AVIATION SAFETY. AT THE 1980 CONVENTION THE AFN PASSED A RESOLUTION TO WORK WITH OTHER ASSOCIATIONS AND AGENCIES TO REDUCE THE AIRCRAFT ACCIDENT RATE IN ALASKA.

THE AIR CARRIER INDUSTRY RECOGNIZES THAT MANAGEMENT AND COMPETENT FLIGHT CREWS ARE THE KEY TO SAFE OPERATION.

AT THE PRESENT TIME, AIR CARRIERS IN ALASKA DO NOT HAVE ACCESS TO STANDARDIZED TRAINING PROGRAMS TO IMPROVE BOTH MANAGEMENT AND THE FLIGHT CREW'S SKILLS.

In 1978, the industry established the Alaskan Aviation Safety Foundation, a non-profit corporation designed to foster aviation safety through education programs. The Foundation will offer aviation training programs throughout the state.

American Airlines Training Corporation (AATC) will develop training systems to meet the unique needs of aviation in Alaska. These programs will be designed to provide standardized recurrent training that will reduce the accident rate. The research to develop the training programs will be conducted in Alaska.

While American Airlines is developing the comprehensive training program the Foundation will be working with other aviation groups to offer their programs in Alaska.

The Aircraft Owners and Pilots Association (AOPA) has developed extensive pilot training courses. Very few of these programs are offered in Alaska because of the high cost of transporting instructors and the training materials to Alaska. The Foundation has worked out a cost-sharing arrangement with AOPA to offer more of these programs in Alaska.

THE PREVENTION OF ACCIDENTS IN ALASKA BEGINS WITH MANAGEMENT. THE ALASKAN AVIATION MANAGEMENT PROGRAM WILL BE OFFERED IN AT LEAST FIVE ALASKAN COMMUNITIES. THE MANAGEMENT PROGRAM HAS BEEN OFFERED IN THE PAST AND IS DESIGNED SPECIFICALLY FOR ALASKAN AVIATION OPERATORS.

EACH YEAR AT THE ALASKA AIR CARRIERS ASSOCIATION ANNUAL CONVENTION, ENGINE AND AIRCRAFT MANUFACTURERS OFFER SEMINARS FOR MECHANICS. THESE PROGRAMS ARE WELL ATTENDED AND ARE THE ONLY SCHEDULED OPPORTUNITY FOR ALASKAN CARRIERS TO MEET WITH THE MANUFACTURERS. THE FOUNDATION WILL EXPAND THIS PROGRAM AND OFFER MECHANICS' SEMINARS THROUGHOUT THE STATE.

THE FOUNDATION HAS WORKED WITH THE EMPLOYEE ASSISTANCE CONSULTANTS OF ALASKA (EAC) TO DEVELOP A PROGRAM TO HELP EMPLOYEES OF AIR CARRIERS. EAC WORKES WITH EMPLOYEES AND THEIR FAMILIES TO DEAL WITH PERSONAL PROBLEMS WHICH MAY AFFECT THEIR PRODUCTIVITY, HEALTH, OR CONTINUED EMPLOYMENT. THE BASIC ASSUMPTION OF THIS PROGRAM IS THAT A HEALTHY EMPLOYEE IS ALSO A SAFE EMPLOYEE.

THE FOUNDATION WILL PROVIDE AIR CARRIERS WITH INFORMATION ON AIRCRAFT ACCIDENTS IN ALASKA. INFORMATION SUCH AS THE CAUSE AND THE TYPE OF AIRCRAFT WILL BE PREPARED IN AN EASY-TO-READ FORMAT AND DISTRIBUTED TO AIR CARRIERS.

THE ALASKAN AVIATION SAFETY FOUNDATION IS BEING DEVELOPED IN COOPERATION WITH THE INSURANCE INDUSTRY. THE FOUNDATION IS WORKING WITH ROBERT J. CARNIE, AVIATION SAFETY CONSULTANT WITH THE INTERNATIONAL INSURANCE BROKERAGE FIRM OF REED STENHOUSE, TO ESTABLISH SAFETY PROGRAMS RECOGNIZED BY THE INSURANCE INDUSTRY. CARNIE HAS EXTENSIVE EXPERIENCE FLYING HELICOPTERS IN ARCTIC ENVIRONMENTS.

IN AN EFFORT TO REDUCE INSURANCE COSTS, THE ALASKA AIR CARRIERS ASSOCIATION HAS PUT TOGETHER A GROUP WORKERS' COMPENSATION INSURANCE PROGRAM. THE ALASKA DIVISION OF INSURANCE HAS ISSUED FINAL APPROVAL FOR THE ALASKA AIR CARRIERS ASSOCIATION (AACA) WORKERS' COMPENSATION PROGRAM. THIS PROGRAM IS AVAILABLE EXCLUSIVELY TO MEMBERS IN GOOD STANDING WITH THE AACA. AN IMPORTANT PROVISION OF THE PROGRAM IS THE REQUIREMENT THAT PARTICIPANTS IN THE PROGRAM MUST BE ACTIVE IN SAFETY PROGRAMS ESTABLISHED BY THE AACA BOARD OF DIRECTORS. THE DIVISION OF INSURANCE HAS ALLOWED THE BOARD OF DIRECTORS ONE YEAR TO DEVELOP THE PROGRAMS. THE PARTICIPANTS IN THE PROGRAM TO DATE WILL SAVE AN ESTIMATED $86,000 IN PREMIUMS.

THANK YOU FOR THE OPPORTUNITY TO EXPRESS OUR VIEWS ON AVIATION INSURANCE.

Ketchikan Daily News, Wednes

Pilots fasten seat belts a

By J.K. MARSH
Daily News Staff Writer

Alaska aviators have found their insurance rates jumping from 100 to 200 percent this year, and those changes are forcing changes for many.

The rate increase is hitting both commercial and pleasure pilots, forcing increases in air taxi rates, and discouraging private pilots from acquiring their own planes.

The reasons for the high Alaskan rates are simple. Alaskans fly more, with almost 16 times the flight hours per resident as the rest of the U.S. in 1978, and have double the number of aviation accidents.



Aircraft owners and operators throughout Alaska have faced insurance premium increases that have more than doubled their payments in the last few years. Increases are blamed on the high percentage of accidents in the state, and the reluctance of most insurance writers to get involved. Andrea Smith photo.

Insurance companies that have taken too many losses insuring Alaskan fliers are staying out of the market, leaving almost no one insuring state aviation but the Lloyd's syndicate of London.

Alaska Senate Bill 277, introduced March 12, would establish an Aviation Indemnity Corporation of Alaska to provide another market for insuring the aircraft operators in the state. Initially funded by the state, the corporation would exist independently and would set rates at a competitive level. It would not depend on state subsidy for continued operations.

The corporation would make aircraft insurance more accessible to fliers, but would not guarantee lower rates, said state Division of Insurance director Ken Moore.

Another reason for higher rates is the unlimited liability to which Alaska air carriers are subject, said Paul Breed of SEA Airlines. The amount of liability for which a victim can sue is unlimited in Alaska, while on international flights the amount is limited to $100,000 by international agreement, Breed said. Alaska is not the only state with unlimited liability, but many states have set limits.

"People injured in a wreck deserve to compensated, but I question some of the large claims being awarded," said Mike Salazar of Ketchikan Air Service.

Breed also contends there is little significant difference between the rates for good risks and bad risks. Operators who may cut corners on safety procedures can cut operating costs, and suffer no greater increase in insurance premiums.

Breed said he has had no liability claims filed against him since he started as an air taxi operator in 1973, and only one claim for hull damage, in 1974. But he has found no significant difference between his rates and those of others who have had claims against them.

The result is sharply increasing insurance premiums, for air taxis, instructors and private pilots alike.

Jack Cousins has been a flight instructor in the Ketchikan area since 1964, but he won't be teaching this year because his insurance premiums have gone from $3,800 to $9,800, and the coverage has fallen from $500 to $1,000 deductible on ground insurance and from five percent to 10 percent deductible on air insurance.

"You can hobnob for one or two dollars more to cover fuel

s insurance rates climb

increases, but you can't tell a guy you need to charge $20 more an hour to cover the insurance," Cousins said.

Breed said it looks like his rates would have increased by about 500 percent over the past two and a half years,"and that's with no claims against us at all."

Adding to the increase is the new policy requirement that Breed carry year-round insurance for all his fleet, although one-half to two thirds of his planes are inactive during the winter. He said that until last year he could get a lower rate for inactive planes during the winter.

Higher insurance rates come partially from higher accidents rates. Between 1974 and 1978, there were almost five times as many nonfatal air taxi accidents per 100,000 hours of flying time in Alaska - 15.2 - as in the rest of the U.S. Nonfatal general aviation accidents per 100,000 hours were more than double those in the rest of the U.S. during that period.

A 1980 special study by the National Transportation Safety Board concluded that the major factors contributing to the high air taxi accident rate in Alaska are the "bush syndrome," inadequate airfield facilities and communications, and inadequate weather observations and navigation aids.

One recommendation was safety programs which reiterate the hazards of the "bush syndrome," which is the willingness of the pilot or the passengers to take unwarranted risks to complete a flight in hazardous conditions.

Other recommendations include improved maintenance of runway facilities, especially in small villages; increasing weather observation stations and improving weather information communications; and location of a Federal Aviation Administration principal operations inspector and principal maintenance inspector at Ketchikan, Nome, Bethel and other regional hubs.

Insurance companies are in the business to insure, but if they lose money at it they are going to get out of the market.

"In the early and mid-1970s, the foreign (lower 48) market was strong, but they had a terrible experience," said Ken Moore, director of the state Division of Insurance."Over the last 11 years their true loss - loss against premium - was 139 percent, and some years it was up to 219 percent. They gradually eased out instead of adjusting the price structure."

In 1979, Lloyd's syndicate wrote $13.9 million in insurance covering Alaska aviation, while companies lower 48 wrote only $1.2 million, Moore said.

"Basically, Lloyd's is the only market, and they re keeping up with losses by the expedient of adjusting their rates to conform," he said.

Moore said the proposed state aviation insurance corporation,"isn't any guarantee rates will go down at all. It's to make a market that's accessible by local agents. If nothing else, it may jar London to opening up the market."

"Aviation insurance in Alaska has been like this historically," said Rick Hardcastle of Hardcastle-Davies Insurance in Ketchikan. "Peaks and valleys. After a year or two of good experiences, we get more companies involved."

"The competition aspect came home this year, and the composite of deaths and accidents over the last few years finally caught up with the industry," he said.

The amount of damages per accident can be much higher for airplanes than automobiles and Hardcastle said,"the trend in damages per accident, particularly fatalities and partial disability, has gone from fair to worse."

Far more people own automobiles, and the claims are generally smaller, so that a company's losses can be better predicted. "But in aviation, you might wipe 20 people out with one accident," Hardcastle said.

The result of higher insurance costs, coupled with increasing fuel costs, is higher air taxi rates. "We're already pricing ourselves out of the local recreation market," Breed said.

Salazar said that the state should start building more airports. Wheel planes are faster, cheaper and carry more."In the future I don't think it will be economical for float planes to operate, except into the lakes."

If other insurance writers get involved in the market again, the premiums may peak and start heading down again. But insurance may stay high, making flying in Alaska accessible less to those who do it for pleasure, and more expensive for those who fly out of necessity.

Rep. Dan Bailey, D-Fa., saying that full Social Security benefits at 65 is enshrined in our culture, expressed fears that the measure might prove politically unacceptable.

People retiring at age 62 under the plan would receive 64

at odds in sh

right direction.

Not only must weather conditions be adequate at Kennedy Space Center here, but the forecast must be favorable at the main landing site at Edwards Air Force Base in Califo ia and the backup site at White Sands Missile Range in New Me

The Anchorage Times

CITY/STATE

/General ne

Senators grapple with aviation insurance rate woes

by Karen Ranspot
Times Writer

Six Alaska state senators are proposing the state get in the business of aviation insurance.

But an aide to Sen. Richard Ellison said he sponsored the legislation as a means of sparking discussion and not as an absolute solution to the problem of high aviation insurance rates.

The Senate bill was introduced last week by the Sitka Republican and would create the Aviation Indemnity Corp. of Alaska, fashioned after the state's medical malpractice insurance corporation.

The corporation would set requirements for insurance and establish premiums that would be neither "excessive" nor "inadquate." The bill defines excessive rates as those producing too high a profit and inadequate rates as those that would endanger the solvency of the corporation or destroy competition in the aviation insurance field.

The state would loan the corporation up to $30 million to set up shop and the loan would be repaid from premiums collected.

Air taxi operators, unhappy with rising insurance rates, and insurance brokers, concerned the state may be entering their business, are meeting separately this week to discuss the legislation.

Although the director of the division of insurance said the administration is not taking a position on the legislation, he said the high rates are caused, at least in part, by high loss rates in Alaska.

"There is no place in the world they fly like we fly up here," Ken Moore said. That statement is backed up by a 1980 National Transportation Safety Board report that says Alaska's non-fatal air taxi accident rate is five times the national average. The fatal air taxi accident rate is double the national average.

Moore said it is difficult to compile figures comparing rates charged to losses paid since most aviation insurance is written by one market, Lloyd's of London.

However, statistics for American insurance companies in 1978 show losses of $6.4 million in Alaska compared to premiums of $2.7 million. That was the year the American insurance companies pulled out of Alaska, Moore said.

London's rates have "virtually doubled, and in cases tripled, in the last year," Moore said.

And Ellason is concerned those rate increases will force some air

"Due to lack of competition (in aviation insurance), air taxi operators are forced to pay unreasonably high rates," Mary LaVan of Ellason's office said. The senator is also concerned about a rumor Lloyd's may be considering pulling out the Alaska market, she said.

The legislation is designed to spark discussion, LeVan said, and Ellison hopes to get input from the aviation and insurance industries. "The best way to get input (on a

SECTION B

Air insurance rates anger fliers

Karen Ranspot
s Writer

The courts' and the public's atti- toward insurance companies causing aviation insurance rates skyrocket, according to one local taxi operator. Another thinks on's monopoly on Alaska avia- nsurance is the real problem.

me air taxi operators are fac- nsurance rate increases of 200 to ercent. But Joe Wilbur of Wil- Flight Operations blames the s and not the insurance compa-

t is a combination of the sue- y people and juries," Wilbur The public thinks the insurance panies are ripping them off and uries make large settlements in s involving insured pilots. They er stop to think that those awards passed along through increased s.

When losses are higher than pre- ms, the insurance companies no choice but to raise rates," ur said.

nd because there is often no al- ternative transportation, pilots find themselves "pushing the weather," Wilbur said, which leads to the high accident rate in Alaska. Alaska's non-fatal air accident rate is five times the national average and the fatal air accident rate is double the national average.

Because of the high cost of getting insurance, air taxi operators are currently studying proposed legislation that would set up a state aviation insurance program. But Craig Ketchum of Ketchum Air Service said operators aren't ready to come out in support or opposition to the bill.

Most of the operators only received a copy of the bill Wednesday and they haven't had time to review it, Ketchum said, but all think something must be done.

Ketchum thinks part of the problem is the lack of competition in Alaska. Since American insurance companies pulled out of the market in 1978, Lloyd's of London is the only company willing to insure Alaska pilots. "They have a monopoly," Ketchum said.

Air taxi operators are required by state law to carry liability insurance. While Ketchum said pilots realize the insurance is essential to protect the public, he said 200 to 300 percent rate increases this year are endangering many air taxi operators.

One pilot is facing a $30,000 insurance bill this year, Ketchum said, compared to $12,000 last year. That kind of increased cost of business is difficult to pass along to passengers without losing business, he said.

Liability insurance for passengers is running between $1,200 to $2,500 per seat plus another $1,000 to $1,700 for the aircraft, Ketchum said, which means liability for a seven- passenger plane might run $15,500.

And since most air taxi airplanes are mortgaged, the operator is also required to carry hull insurance to cover the cost of replacement in case of a crash. The hull insurance is currently running about 10 percent of the value of the airplane or $10,000 for a $100,000 plane.

rumor that Lloyd's of London is considering pulling out of the Alaska aviation market might be good news, Ketchum said. If no insurance was available and "the public could not fly anywhere, the problem (of insurance costs) could come to light."

A local insurance agent, Lois Clary, defended the rate increases and said the reason for the sudden jump was that rates have been too low for the past 10 years.

The Anchorage Times
CITY/STATE
/Comics
/Television
SECTION B

Clark: penalize unsafe pilots

by Karen Ranspot
Times Writer

The first step toward lowering Alaska's skyrocketing aviation insurance rates is to get the unsafe pilots out of the air, the chairman of the Alaska Air Carriers Association says.

And he thinks the way to reach them is through their pocketbooks.

Craig Clark says safe aviators are having to pay higher insurance bills because the poor pilots are having all the accidents. He thinks a proposed state aviation insurance program may be a solution for the safety-conscious pilots. But he's also worried that the program may become a subsidy program.

"A subsidy is not going to solve the problem. It will just allow the bad operators to continue," Clark says. Selective underwriting would keep the bad operators out and allow the good operators to pay lower premiums.

"Usually you buy insurance to cover a catastrophe but this year my insurance was a catastrophe."

Clark thinks it is time he and other safety conscious air taxi operators quit paying for the losses piled up by the sloppy operators.

He recommends a state grant to the recently formed Alaska Safety Foundation. The money could be used to institute a safety program, both for pilots and managers of air taxi operations.

If insurance companies or a state insurance program offered graduates a reduced premium, the responsible operators would get an economic break while bad pilots would have to pay for their own crashes.

The Federal Aviation Administration is not doing a good job of policing pilots in Alaska and that allows the irresponsible operator to continue to add to the accident rate in Alaska, Clark said. "I don't believe FAA has enough personnel (in Alaska) to police the operators."

The accident prevention coordinator for the Federal Aviation Administration in Alaska agrees policing is difficult. The Nome-Kotzebue area has a high accident rate, Gene Morris said, but most of the accidents take place in Bush areas far from the population centers.

"The area is so large you could put a 100-man office in the area and still have trouble covering it."

But the manager of an air taxi operation plays an important role in keeping accidents to a minimum. Despite the high accident rate for the area, Nelson Walker of Kotzebue recently received an award for 30-years of accident-free flight.

"As soon as a pilot leaves the fold of the guy who is keeping a tight rein, they get the same accident rate as everyone else," Morris said.

Because of an oversupply of air taxi operations and the marginal profitability of the business, there is a lot of pressure to fly in marginal weather or to overload airplanes, Clark said.

Otherwise, the potential customer may take his business elsewhere, he added. "Most pilots don't go out to commit suicide," Clark said, but some of them might as well.

Morris agrees the safety foundation is a good idea, but like Clark, he doubts it will be effective unless it is tied to some form of economic incentive such as reduced insurance rates.

Accident prevention specialists feel they are putting on a dog and pony show for the empty seats, Morris said. The pilots and managers willing to invest the time and money to attend the classes usually are not the ones who need to be there.

But while aviation insurance rates have skyrocketed this year, Morris said, there is some hope on the horizon. Insurance rates tend to lag a year or two behind accident rates and, so far, 1981 is a safer year than 1980 was.

There have been six non-fatal air taxi accidents and one fatal accident, Morris said. During the same period, the previous five-year annual average was 11.2 non-fatal accidents and 1.2 fatal accidents.

The Anchorage Times
CITY/STATE /Business /Television
SECTION B

Program goal: better pilots

by Bill Blessington
Times Writer

The Alaska Air Carriers Association is seeking a $1-million state grant to begin a state-of-the art training program aimed at reducing aircraft accidents.

The training program, operating under the umbrella of a tax-exempt foundation, would be specifically tailored to improve pilot skills and reduce the accidents attributed to pilot error, said Tulinda Deegan, executive director of the Alaska Air Carriers Association.

She said the foundation will either build a training facility at a centralized location or transport portable facilities throughout the state if the project is approved by the Legislature.

The association hopes the training facility will help reduce Alaska's aircraft fatality rate, which is five times higher than anywhere else in the country.

From 1974 through 1978, 600 lives were lost in commercial and general aviation accidents in Alaska. Just over 85 percent of the accidents were caused by pilot error, according to government statistics.

If the Legislature funds the initial cost of setting up the program, the association hopes that state aviation fuel taxes can be used to support it on a regular basis.

"We are willing to keep it (the tax) and add to it if necessary to fund this," Deegan said.

Presently, airlines and private pilots pay a four cents a gallon tax on aviation gasoline and 2.5 cents per gallon tax on jet fuel. The state collects $4.1 million a year from the aviation fuel tax.

"We'd like to see that tax turned over and used for aviation," said Deegan.

The Air Carriers Association has contracted with the American Airlines Training Corp. to build the curriculum and provide flight training simulators. Deegan said they plan to spend nine months putting the training program together at a cost of $363,000.

"We're hopeful we can be fully funded by the Legislature this year. If not, we'll try to make it up with private funds. The problem is that American Airlines has the manpower now, but they may not have it next year."

As Deegan explained, the firm has proposed to interview the most experienced Alaskan pilots — survivors, as she put it — to find out why they are still flying. Their methods and techniques will then be incorporated in the training program and passed on to other pilots.

The second highest cause for aircraft accidents here, she said, is terrain, a condition that can be duplicated by sophisticated flight simulators.

"If we can train pilots to handle terrain better," she said, "we can reduce accidents."

The training program, she said, would offer participating companies and pilots a way to lower their aircraft liability rates in the same way that car drivers who have had student training can obtain lower rates on their car insurance.

The foundation's budget for the training program calls for a $1 million grant from the state the first year, decreasing to $400,000 by the fourth year. Private contributions from the industry would increase over the first five years from $150,000 to $500,000 during the same period, and user fees, collected from pilots and mechanics who take the specialized courses would increase from $50,000 to $100,000 during the same period.

In a related effort to reduce accidents and provide lower costs for members, the association has just announced a reduced rate group plan for workmen's compensation.

The new workmen's compensation plan, said Deegan, provides a reduction of about 24 percent for members. To participate, she explained, members have to participate in safety programs sponsored by the organization.

"This follows several years of difficult negotiations and should prove a valuable benefit to members," Deegan said.

"Not only are the premium savings attractive, but the safety programs associated with the insurance package should help improve the overall accident rate in the state."

Anchorage Airways, Inc.
4950 AIRCRAFT DRIVE • ANCHORAGE, ALASKA 99502 • (907) 243-4600

TESTIMONY

OF

D. CRAIG CLARK

CHAIRMAN

ALASKA AIR CARRIERS ASSOCIATION

PRESIDENT

ANCHORAGE AIRWAYS, INC.

ON

SB 277 - AN ACT TO
ESTABLISH THE AVIATION
INDEMNITY CORPORATION
OF ALASKA

MAY 4, 1981

I am pleased to have the opportunity to present my views on Senate Bill 277 - An act establishing the Aviation Indemnity Corporation of Alaska.

Aviation hull and liability rates have taken a sharp increase in the past two years and are appartently going to rise higher. Anchorage Airways, Inc. rates on our primary turbo prop aircraft have risen from 1.30% for hull coverage to 2.75% and are expected to go higher in June 1981. The liability premium for 9 passenger seats has increased from $5700.00 per year to $12,400 per year. This rate increase on our 2 turbo-prop aircraft has increased our cost of operation nearly $53,000 per year or approximately $30.00 per hour. Our other aircraft insurance was increased by $28,000. During this three year period of insurance renewals, Anchorage Airways has suffered one hull loss in the amount of $46,000 caused by operation of one of our aircraft by the Federal Government. We have not had any liability claims. My point is that our rate increases have been a result of the overall rising market rates and not a result of the losses experienced by our firm. Insurance is purchased for protection from high operating losses, however the increase in premiums has become a high operating loss in itself.

Air taxi firms can pass this increased cost of operations on to their customers but there is usually a period of time (as high as six months) that the cost must by absorbed by the operator because of the competition. The scheduled Air Carriers are not

experiencing the same increase in rates. Lloyds of London has typically been reducing airlines premiums and have now stopped those reductions but have not as yet begun to raise the airline rates.

The private aircraft owner is having a particularly difficult time. Many have dropped insurance coverage on their aircraft. This results in a smaller premium base available to spread the risk. Aircraft sales to the private pilot have suffered because of the high cost of insurance coverage required by the lending institutions.

The high cost of insurance today is the result of the problem of high dollar losses incurred by the insurance companies. The high dollar losses are a result of the liberal liability claims paid in the State of Alaska and the high aviation accident rate we have in the state.

There are several actions that can be taken to solve the problem of high losses. The FAA over the past 10 years has ineffectually tried to lower the accident rate by imposing more restrictive operating regulations upon the public. These new regulations have been totally unsuccessful as exhibited by the continuing high accident rate which is five times higher in Alaska than in the lower 48 states. My proposed solutions are:

1. Selective underwriting of aviation risks. Establish procedures for rating a risk (similar to the existing workmen's compensation program) whereby a good risk enjoys a reasonable rate and a bad risk must pay a much higher rate (possibly up to 500% higher then standard).

2. Recognition of Aviation Safety Training. Establish procedures for recognition of aviation safety training and allowing a reduction in premium rates for successful completion of such courses. The aviation safety training course must be qualified under the program and must train to a desired proficiency level. It is my opinion that most flight schools would not qualify as an approved aviation training course, in order for this type of program to be effective the safety training must be beyond the level of FAA requirements.

3. Wrongful death limit. Consideration of a "wrongful death limit" may be beyond the scope of this committee at this time, however a wrongful death limit similar to the Warsaw Convention and the state workmen's compensation program would considerably reduce the cost of aviation insurance. If a reasonable wrongful death limit of $100,000 to $250,000 existed liability rates would be manageable and the deceased's estate

would be adequately compensated. In the event of gross negligence the death limit would be pierced and the deceased's estate would receive the "normal" settlement. This type of legislation would provide several benefits to the flying public in that a "grossly negligent" operator, as proven guilty of such by the court system, would find that [illegible] continued negligent operations would be financi[illegible]ly burdensome and the Federal Aviation Agency would be hard pressed to allow the individual to continue with FAA approved flight operations.

In closing, I would like to express my belief that insurance is a protection for a catastrophic loss that has occurred with reasonable preventative practices in effect. Subsidization of Aviation Insurance premiums by the State of Alaska without provisions for the forementioned solutions will only foster a continued high Alaskan aviation accident rate and result in the eventual financial failure of the proposed Aviation Indemnity Corporation of Alaska.

Thank you very much for your time to hear my opinions.

MUNZ NORTHERN AIRLINES, INC.
P. O. BOX 790 NOME, ALASKA 99762 (907) 443-2215

April 9, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 277
Aviation Insurance Co.

Dear Senator Eliason,

I would add my support to Senate Bill 277 for it is truly needed in the rural areas.

At this moment I have before me a bill for over $115,000, just arrived from our Insurance Company. If we were Sears or Coca Cola this wouldn't be so tough, but Munz is a small struggling privately owned compan attempting to provide needed passenger and mail service in a very remote, low traffic area.

We fly about 11,000 passengers a year. Simple math reduces this to almost $11 for each passenger.

Reducing this cost means better, more economical service for our travellers and I heartily endorse the effort.

Yours truly,

MUNZ NORTHERN AIRLINES, INC.

Richard F. Galleher
President & General Manager

RFG:mpc
cc: Frank Ferguson

dle Hunter of Alaska, Inc.
[illegible] Alaska 99501
[illegible] 907

Statement

HUNT NORTHERN
AIRLINES INC
P O BOX 790
[illegible] AK 99762

Date 3 31 81
Account 455800

Contact D VANDER JAGT

PAGE 004

Reference Number	Reference Date	Coverage	Transaction	Company	Policy Number	Effective Date	Amount
74013	3 30 81	AVN HULL	PREMIUM TAX	PREM TAX--ST	81-RBH679	3 01 81	391.86
						TOTAL	115,331.34*

APR-3 81

Retain this copy for your records.
Please return the gold copy with your remittance.

AIR CENTER SITKA

P.O. Box 4340
Mt. Edgecumbe, AK 99835

Telephone (907) 966-2258

March 27, 1981

Dear Aviation Insurance Consumer:

Recent proposed legislation (SB 277) will allow an Aviation Indemnity Corporation of Alaska to be formed. Reading the proposed act, it is clear that AICA will be separate from the state government and will provide a vehicle through which all Alaskans can benefit through reduced insurance premiums for aviation coverage.

At present, as you all know, the only real market for insurance is through London, and that market is milking Alaskan dollars at an ever increasing rate. While it is true that our accident rate is several times that of the lower 48, there is no reason that we should have to pay premiums which are a hardship to us or our customers when the primary benefit of these premiums is to enrich the insurance community. Senate Bill 277 provides for premiums to be determined by the actual loss histories, not by the profit incentive of how much will the market bear. Further, no Alaskan insurance broker or agent need fear being hurt by this legislation because the insurance to be made available will be marketable through them, providing them with reasonable profits. It should be noted that there is no requirement that this insurance must be purchased. If less expensive or more complete coverage is available, then it should be used.

AICA is to be a private corporation totally separate from the state. Indeed, the only association between the state and AICA will be that the Governor of Alaska will appoint the board of directors, and the state will provide the seed money to get it started--all of which is to be repaid through future premiums. True, yearly reports will have to be made, and the corporation will have to abide by the laws of the state, but these requirements are neither more nor less restrictive than those imposed on other corporations doing business within Alaska; however they are more stringent than those imposed on foreign corporations.

Each of you who have been involved in a loss situation know that the final settlement of that loss has been to the insurance company's benefit. A salvagable aircraft has been declared a total loss because it was insured for less than the market value, and an aircraft which for economic reasons should have been totalled has been declared repairable, requiring many months delay. A local company sensitive and responsive to local needs would be able to respond to the unique needs of the Alaskan aviation community and prevent such excesses.

This legislation is needed to keep the cost of insurance at a reasonable level, and your input is necessary to make this proposed legislation into law. Copies of Senate Bill 277 can be obtained through your local Legislative Information Office, and comments on it, both positive and negative, would be welcomed by any of the sponsors or your local Senator. If you are in favor of this proposal, please write and inform Senator Richard Eliason, Pouch V, Juneau, Alaska 99811. Without your help and input, this much-needed assistance will never become available.

Very truly yours,

Wade R. Cothran
AIR Center Sitka

April 16, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

This letter is in regards to the proposed legislation (SB 277). We as an organization, consisting of approximately one hundred members, do support SB 277.

As you probably are aware, aircraft insurance costs are spiraling and we believe this is partially due to the monoply by Lloyds' of London. We believe our Aviation Indemity Corporation would be benefical to not only the operator, but to the consumer.

Your help in pursueing this matter to an equitable end would be greatly appreciated.

Sincerely yours,

Ken Bellows
S.E. Alaska Aviation Assn.
Box 1566
Sitka, Alaska 99835

– FLY WITH US! 907 • 747 • 8636 – BELLAIR – BOX 371 • SITKA • ALASKA • 99835 –

P.D.&G. AIRCRAFT
P.O. Box 81063
College, Alaska 99708

April 12, 1981

Senator Richard Eliason
Pouch V
Juneau, Alaska 99811

Dear Senator Eliason:

I wish to comment on proposed legislation regarding the formation of the Aviation Indemnity Corporation of Alaska. I am a certified air carrier (certificate no. F-24-79).

At this point something has to be done to provide some alternative to the insurance situation which we carriers are confronted with. Rates of most of the carriers have been driven far beyond the means of the everyday citizen, primarily by the unreasonable rises in insurance costs. This has caused the public to not conduct business with certified carriers, or to turn to uncertified, uninsured (and illegal) carriers. There is virtually no enforcement action taken against those illegal operations, and I can understand that enforcement and conviction are difficult. Part of the solution is for certified carriers to be able to provide service to the public at an affordable and reasonable rate. We are hard-pressed to do that under current conditions.

Another related problem we have is the various State agencies acquiring their own aircraft. Some of the justification I have heard expressed is that it is too expensive for the agencies to charter an aircraft, that they can do it cheaper for themselves. I doubt that is true under even the current economic conditions. There is no question it would not be true if the State were required to provide at the same cost the insurance which air carriers must provide. But for a State agency to use such justification when the State is so involved as a factor in our high rates is farcial. (If elaboration is needed as to how involved the State is in causing those rates, I am sure some of the local Juneau operators would verbally assist me). Lower insurance rates would once again make it unquestionably cheaper for us to do the State's flying than it would be for the State to do its own.

Now, because of my views against the State's involvement in areas which should be left to private enterprise, it is going to seem hypocritical for me to advocate the establishment

of the Aviation Indemnity Corp. of Alaska. Despite the fact that I have given it much thought, in some aspects it remains hypocritical, but at this point I am willing to swallow a bitter pill and say that I support the establishment of the AICA.

We must have an alternative to the insurance situation we are faced with. So long as the monies which the State provides are paid back once the program is established, then I believe that is a legitimate, and in this case necessary, use of the revenues which our resources are producing for us.

Sincerely,

Bill Lentsch

BILL LENTSCH
Owner/Operator

cc: all Fairbanks Senators and Representatives

April 16, 1981

Senator Richard Eliason
Alaska State Senate
Pouch V
Juneau, AK 99811

Dear Senator Eliason:

Below, I have comments on Senate Bill 277. My first emphasis will be referenced to the page number of the Senate bill. I will then define some general concerns and comments voiced by myself and other businessmen in Sitka. I am very much in support of this legislation, so any criticism I voice hopefully is constructive.

Page 1 -- Purpose -- Many feel adequate insurance is available presently. should emphasis be on "alternative and economical" insurance? (later I'll discuss the need to substantiate economical coverage).

--Corporate Board of Directors -- A directorship consisting of users of the insurance program may be more effective than a "mixed bag".

Page 2 -- Item E -- The Board should be responsible for policy of the corporation, not the Director of the Division of Insurance. Is this not a distinct and separate entity from the State of Alaska?

-- Item F -- I question the legality discussed here. Directly or indirectly, the Board of Directors must be responsible for their conduct as agents of the Corporation.

Page 4 -- Powers and duties of the Corporation -- My question: Is the corporation actually getting into the whole gamut of insurance services (i.e., underwriting, sales, payoff, etc.? Or as a support vehicle to the already established insurance market? Many read this legislation and are not sure as to the scope of proposal.

Page 7 - d -- There is a discussion of "available reasonable rates". What is reasonable? I feel there is a strong need to have projected management costs, premiums, etc., in order to evaluate what is proposed in this bill with what is presently available.

Page 12 -- Sale of Corporation -- Many businessmen in Sitka have concerns of the involvement of the State in financing, policy decisions, etc., of this Corporation. Although intent is one thing, what will actually occur?

I feel the corporation should be organized with private ownership at the inception. It may become more complicated, but if the need is justified in dollars and cents, then the major users should be willing to contribute capital to the corporation (in the form of insurance premium deposits). Use of present insurance markets with the corporation's support as underwriter seems more conducive to the insurance industry as a whole.

There is an imminent need for either direct or indirect subsidy of this industry. At present the principle means of travel in Alaska are marine, air, or road (rail and auto). The aviation industry is the only one of the three which does not receive subsidy from the State. This means of subsidy seems very logical in that it is not a direct demand for <u>funding</u> of aircraft transportation but of <u>financing</u> a means of reducing costs.

I wonder if the need of an independent study and evaluation may be necessary to eventually reach a viable solution to the insurance situation. This bill needs organized support of the aircraft industry, insurance companies, and the public.

I have a concern as to the effect of premium loss ratios and its effect on the financial capacity of the Corporation. A year of major losses could conceivably exceed the present $30,000,000.00 addressed in SB 277.

Please contact me if you have any questions or comments, Senator Eliason, as I am hopeful this proposal will become a reality.

Thank you,

Bradley L. Shaffer
P.O. Box 1636
Sitka, Alaska 99835

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM April 1, 1981

SUBJECT: Aviation indemnity insurance (SB 277)

TO: Senator Richard I. Eliason

FROM: Linn H. Asper
Legislative Counsel

You have asked for a description of the operation of the provisions of SB 277, which would create an aviation indemnity corporation to provide aircraft insurance in the state. The perceived need for creating the corporation is that aircraft insurance in the state is currently available only through Lloyds of London at very high rates. It is thought that a quasi-public corporation backed by the state might be able to offer coverage at reasonable rates. This bill is patterned after the Medical Indemnity Corporation of Alaska (MICA) which was formed to deal with the unavailability of insurance in the area of medical malpractice.

The corporation is established by state law, but is independent of and separate from the state (sec. 010). The corporation operates through a Board of Directors selected by the governor (sec. 020). The directors manage the business of the corporation and must prepare a plan of operations within 90 days of their first meeting (sec. 030). The corporation has standard corporate powers in order to operate, and can write aircraft insurance (sec. 040). The operations of the corporation are supervised, to some extent, by the director of the division of insurance (secs. 060 - 070). The corporation may be terminated if the director determines that the corporation can only prevent substantial underwriting loss by charging excessive premiums (sec. 080).

The corporation must pay a tax on all premiums collected, but is exempt from the tax for five years after it commences operations (sec. 090). Rates may be set by the corporation

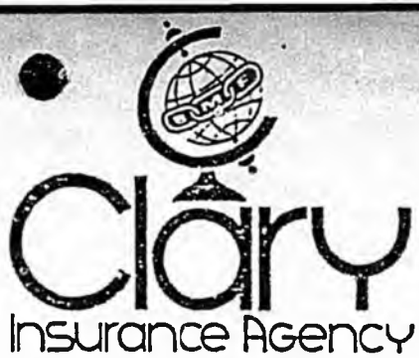
under guidelines set out in sec. 100. If experience indicates that claims and claims expenses exceed premiums, an assessment may be levied against the insureds (sec. 110). If premiums exceed claims and claims expenses the corporation may return money to the insureds by refunds (sec. 120).

Provision is made for sale of the corporation to a private corporation upon such terms as may be required by the director (sec. 140).

Financial support of the corporation is provided in Article 3 of the bill, which creates a loan fund in which the state provides the corporation with loans not to exceed $30,000,000 to provide surplus to pay claims of policyholders. The loans are to be paid back in annual installments of at least 25 percent of the excess of premiums earned over claims and expenses, at an interest rate of 7 percent (sec. 200).

Under Article 3, General Provisions, are found various definitions, a description of which provisions of Title 21 apply to the corporation, and a provision exempting the corporation from the open meeting requirement of AS 44.62.310.

LHA:ljb



April 6, 1981

The Honorable M. Ed Dankworth
Senator
State of Alaska, District J
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 277

Dear Ed:

Your letter of April 1, 1981, plus memorandum prepared by Linn H. Asper, Legislative Council, written to Senator Richard I. Eliason regarding Aviation Indemnity Insurance has been received for which I thank you.

Ed, I am not an Aviation expert, but with a working knowledge of same, a close relationship with Lloyds of London, as well as having over forty years in the insurance business, I feel I can speak for our industry somewhat.

Insurance rates are based more on loss experience than on competition of insurance companies. Lloyds Underwriters basically are comprised of what in our country are insurance companies, and, I assure you, the syndicates these Underwrtiers represent are competitive.

I feel you or anyone else reading the newspapers will agree that not too many days go by without your reading of aircraft accidents, and the value placed on planes and lives runs extremely high. You state that Senator Eliason received numerous comments from people in the Aviation Industry regarding high rates. I have heard of one comment, that being from Sitka; however, the number is irrelevant and immaterial. There are many classes of insuring needs where Lloyds is the only outlet for coverage, and their rates are also high. I am surprised a Senator, or Senators, would ever consider

A Division of Bayly, Martin & Fay International
803 West 5th Avenue • Pouch 7-502 • Anchorage, Alaska 99501 • Offices in Anchorage • Kenai • Seward • Kodiak
Telephone (907) 276-5454 Telex 25193

Re: Senate Bill 277

placing a bill before the Senate because he, or they, were told the rates were high and only Lloyds was insuring.

Have you any idea of the stampede of dissatisfied people, associations, industries, businesses that would request the State of Alaska supply them with insurance coverage if the State even considers providing coverage for one industry because of high cost complaints by a few in that industry? S.B. 277, Aviation Indemnity Insurance, follows and refers to Medical Indemnity Corporation of Alaska. First of all, MICA was formed because at that time no insurance was available for medical malpractice, not even Lloyds, and doctors were threatening to leave Alaska. A few years ago, preceeding MICA, I represented the State's insurance agents and brokers on the Governor's Malpractice Committee and, believe me, we on this Committee worked our butts off for three months plus in an attempt to solve the problem of malpractice insurance with MICA as the ultimate outcome, and it was not until after several months of diligent, concentrated study that the final plea was presented for either the Senate's or House's consideration. Yet, because of one or more complaints, not because of lack of coverage availability, but because of high cost created by high loss experience, a Senator presents a bill to the Senate with no prior investigation for the cause of high rates. If the Alaska Insurance Industry had been consulted, which it was not, I'm sure S.B. 277 would never have reared its ugly head. The Insurance Division of the Department of Commerce was consulted and presented a Bill Analysis to the Senate.

This Bill Analysis was presented, it appears, with very little planning, investigation or common sense. Of the eleven factors they presented favoring creation of the A.I.C.A., not one presents any solid thinking or knowledge of what's going on. In preparing this analysis, I feel they (the Insurance Division) could have at least gathered statistics and other concrete information from specialists of Aviation Insurance within our State's agents and/or brokers who are daily underwriting, rating and handling other factors of this very specialized coverage. This criticism also applies to their presentation opposing creation of A.I.C.A.

Clary
Insurance Agency

Re: Senate Bill 277

Ed, I am not directly involved with those of our industry who are formulating a solid front opposing this bill. Our office insures a heavy volume of Aviation Insurance.

Lois Clary, President of our Company, heads our Aviation Department. I am not speaking of her as Mrs. Clary, but Lois is probably the most highly respected Aviation specialist in Alaska and holds the same high respect on the Lloyds' floor in London. She is meeting with and leading the brokers in their opposition, and said opposition is based on knowledge and facts, not the fumbling and guesswork given to the Senate in the pros and cons presented by the Insurance Division. The possibility of the Senate's even recognizing and considering a bill because a few felt their insurance rates were too high is mind-boggling.

From where I sit, I would say every individual whoever purchased insurance of any kind feels the premium is too high.

Ed, I've discussed the idiocy of this bill with you and Arliss, to whom I'm sending a copy of this presentation. I am not otherwise involved other than in listening to Lois discuss the progress being made.

I realize this presentation sounds strong and critical, but how in H--- could we on the Malpractice Committee spend so many working hours over three plus months being led by the Commissioner of the Department of Commerce, Tony Motley, who was assisted by a highly qualified technical consultant imported from Los Angeles before a Bill was presented, when here is a Bill being presented to the Senate asking for the formation of a Company and Thirty Million Dollars to support same with nothing to back it up? The Thirty Million Dollars could probably be used up in a few months just paying or defending claims.

Clary
Insurance Agency

Re: Senate Bill 277

I am enclosing copies of the Bill Analysis prepared by the Division of Insurance plus a copy of a Position Editorial prepared by Lois and other Brokers which will give more facts from those who know.

Amen.

Sincerely,

CLYDE H. CLARY
Chairman/CEO
BAYLY, MARTIN & FAY, INC. OF ALASKA
d/b/a Clary Insurance Agency

CHC:mes

cc: Senator Arliss Sturgulewski

Clary
Insurance Agency

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

April 2, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 277

Thank you for your request for our position on SB 277. We have taken a neutral position on this legislation. The bill is modeled after AS 21.88 which was formed to resolve a market availability crisis for medical professional liability insurance in 1976. SB 277 establishes a similar corporation (A. I. C. A.) to write aviation hull and liability insurance for risks in Alaska. More than 90% of this market is written in nonadmitted, nonregulated markets such as Lloyds of London.

We have prepared a list of factors favoring creation of A. I. C. A. and a list of factors not favoring creation of A. I. C. A. These are enclosed for your review.

In addition, the Division of Insurance has prepared a section by section analysis and a chart of the aviation experience for 1970 to 1980 for insurers admitted to write insurance in this State. These materials are also enclosed for your perusal. The chart of aviation experience also lists the experience for nonadmitted insurers but the data is not completely reliable since it does not come directly from the insurer.

As I noted earlier, we do not take a position of the bill but we do have an interest in assuring that the proposal is workable and can be administered. This proposal does meet those provisions.

Very truly yours,

Charles R. Webber
Commissioner

CRW/tt3/7

08-H2LH

Enclosures

Factors opposing creation of A.I.C.A.

1. The principal argument in opposition is philosophical. This can be viewed as placing the State in the insurance business thus in competition with private industry.

2. There has been no documentation or substantiation that currently available rate levels are excessive.

3. There has been no documentation or substantiation that current marketing practices are inappropriate.

4. Viability of the program relies on the ability of A.I.C.A. to purchase reinsurance at reasonable rates. This ability has not been tested.

5. Two admitted markets are considering the provision of a market in Alaska. These are U.S.A.I.G. and A.O.A.

6. Formation of A.I.C.A. may tend to become a monopolistic or exclusive market. There may not be sufficient risks left to attract other markets including Lloyds.

7. There are other market segments that might equally argue for creation of similar corporations.

Factors favoring creation of A.I.C.A.

1. Primary market for coverage is Lloyds of London. This market writes 80% of the aircraft insurance. That market is not regulated.

2. Statistics from the unregulated market concerning loss levels are sketchy at best and do not permit realistic conclusions as to the experience in that market.

3. Quotations in current market are limited to initial broker.

4. Rates for general aviation hull have been reported as high as 20% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every eight (8) years.

5. Rates for commercial aviation hull have been reported as high as 16% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every ten (10) years.

6. With aircraft insurance rates so high, it is difficult for aviation interests to develop enough additional funds to adequately capitalize an insurer. Only the State is in a position to provide necessary initial funds.

7. The Marine Highway System in Southeast and South Central is subsidized. The land highway system in Southeast, South Central and Central Alaska is subsidized. Many communities lie outside the subsidized systems and must depend on air travel. A.I.C.A. is only indirectly a subsidization.

8. Even though A.I.C.A. is a State created, State owned corporation, it operates independent of the State and is, thus, not subject to the bureaucratic inefficiencies that may exist in government.

9. Funds for insurance are currently leaving State and the country, thus, contributing to balance of trade deficit. If the rate levels are not excessive, there would still be an advantage to having a domestic entity provide coverage, not the least of which is expediting claims.

10. Coverage will be available through any agent or broker licensed in Alaska.

11. Lloyds is traditionally slow to pay claims.

SB 277
An Act Relating to Aviation Insurance
Section by Section Analysis

*Section 1.

Provides insurance for liability and hull damage.

*Section 2.

- 21.86.010. Corporation Established. This section establishes a corporation of the state which is to be operated separate from the state.

- 21.86.020. Corporation Board of Directors. The Board of Directors is to be appointed by the Governor and confirmed by the Legislature. The board is comparable to the Board of Directors of an insurance company. There are nine members serving terms of three years. The make up of the board is

  1 Member from a Part 121 scheduled air carrier;
  2 Members from air taxis;
  2 Members from nonbusiness aviation;
  2 Members from the insurance industry; and
  2 Members from the public.

  The director of insurance has access and notice to all meetings. He also approves the level of compensation to board members. 020(f) defines the liability of a board member.

- 21.86.030. Corporation Plan of Operation. This section provides for development of a plan of operation roughly equivalent to the bylaws of a corporation. It lists in general the items that must be addressed in the plan of operation.

- 21.86.040. Powers and Duties of the Corporation. Subsection (a) lists the functions that the corporation must perform including the establishment of underwriting standards, the underwriting of risk, the issuance of policies, the development and filing of rates, the meeting of its obligations under policies issued, and the gathering and reporting of statistics.

  Subsection (b) permits the corporation to hire employees, negotiate reinsurance, expand coverages, borrow money, enter into contracts, sue or be sued, provide services other than insurance, negotiate and contract for management services, and do whatever else is necessary to carry out the duties of the corporation.

- 21.86.050. Establishment of Risk Standards. This section provides that the corporation may refuse coverage.

- .86.060. Limits on Liability Policies. This section excludes punitive damages coverage and provides for the approval of the policy limits offered by the director of insurance.

- 21.86.070. Reporting of Claims. This section requires an annual report of claims activity to the director to be available to the public and the Alaska Transportation Commission.

- 21.86.080. Termination. This section provides conditions for termination of the operation of the corporation and for reactivation of the corporation following a termination.

- 21.86.090. Premium Tax. This section places the premium tax structure for the corporation on the same basis as that applicable to a domestic corporation under AS 21.09.210.

- 21.86.100. Rates. This section provides for categories of risk, that rates may not be excessive, inadequate or unfairly discriminatory, lists items that may be considered in rate review and requires an annual review of rates.

- 21.86.110. Assessments on Insureds. This is a provision that is not usual to a stock corporation which in a sense is what we would have with the creation of this corporation. The State of Alaska would be the holding company. Assessment provisions are usual to reciprocal exchanges and to mutual insurance companies where the insuring entity is owned by the persons insured. It is a form of solvency protection in the event of a financial failure. Provision is made for extinguishment of the assessment provision when surplus reaches a certain level and limits the maximum assessment to 50% of an annual premium.

- 21.86.120. Refunds to Insureds. This section provides for participation by insured persons in the excess profits of the corporation in proportion to his earned premium for the particular year.

- 21.86.130. Payment of Premiums; Cancellation of Insurance. This section allows installment payment of premium, and for cancellation due to nonpayment of premium.

- 21.86.140. Sale of Corporation. This section provides that the corporation may be sold to a private corporation under conditions approved by the director.

- 21.86.200. Fund Established. This section establishes a loan fund in the Department of Commerce and Economic Development in the amount of $30,000,000 with a 7% interest rate.

- 21.86.960. Applicability of Other Laws in this Title. This section makes this new Chapter 86 exclusive of the insurance code (Title 21) except as provided within the chapter. External insurance statutes applicable to the corporation are

AS 21.06.090. This section of law is the director's authority to promulgate regulations under AS 21.

AS 21.06.120. Director's authority to examine an insurer.

AS 21.06.140. Sets forth the procedure for examining an insurer.

AS 21.06.160. Provides that examination expense will be borne by the examined insurer.

AS 21.06.250. Fees and licenses section.

AS 21.09.180. Provides that the director is attorney for service of process.

AS 21.09.190. Provides for serving process and sets the time to plead.

AS 21.09.200. Requires an annual statement.

AS 21.09.250. Defines unlawful acts related to payment of commission to unlicensed producers.

AS 21.09.280. Sets forth the power to appoint general agents or managers.

AS 21.12 [illegible](b)-(e). Deals with reinsurance.

AS 21.18. [illegible]s chapter regulates assets and liabilities.

AS 21.21. This chapter deals with the regulation of investments.

AS 21.24. This chapter addresses the administration of deposits.

AS 21.36. This chapter regulates and prohibits unfair trade practices.

- 21.86.970. Meetings. This section provides that meetings of the corporation are not subject to AS 44.62.310 concerning state agency meetings being open to the public.

- 21.36.980. Definitions.

*Section 3.

Provides for staggered terms for board members.

*Section 4.

Effective date clause.

AVIATION EXPERIENCE - ADMITTED INSURERS - 1970 TO 1980 (000) OMITTED
STATE OF ALASKA

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL
ACTNA CASUALTY+SURETY CO	-	-	-	-	17	144	0	13	0	(1)	-	-	-	-	-	-	-	-	-	-	-	-
ALLSTATE INSURANCE CO	-	-	-	-	29	18	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
AMERICAN EAGLERS	-	-	-	-	-	-	-	-	-	-	-	-	-	-	82	188	89	(173)	-	-	-	-
AMERICAN HOME INS CO	-	-	0	84	0	(24)	-	-	12	0	21	0	0	22	2	2	72	16	58	443	59	31
AMERICAN MOGULTS INS CO	-	-	-	-	1	0	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-
ARGONAUT INS CO	-	-	-	-	3	6	8	0	5	1	112	319	0	(36)	0	(14)	-	-	-	-	-	-
AVEMCO	41	22	70	48	87	89	71	92	58	59	70	10	81	44	122	42	151	109	147	87	245	239
CALVERT INDEMNITY CO(H.	-	-	-	-	-	-	-	-	5	0	-	-	-	-	-	-	-	-	-	-	-	-
CONTINENTAL INS CO.	417	95	466	(19)	413	3	428	519	64	(27)	(2)	(15)	-	-	-	-	-	-	-	-	-	-
CENTRAL NATIONAL INS CO.	-	-	-	-	-	-	-	-	-	-	-	-	64	43	679	1,435	378	1,055	552	345	722	67
DIAMOND AMERICAN INS CO	-	-	-	-	-	-	-	-	-	-	-	-	248	726	437	256	218	625	(2)	(24)	0	(28)
EAGLE STAR	29	(1)	49	10	10	2	0	(8)	0	(1)	-	-	0	(10)	0	80	0	(4)	0	(2)	-	-
EMPLOYERS MUTUAL INS CO	1	0	1	7	-	-	-	-	-	-	-	-	-	-	-	-	0	11	0	(1)	-	-
EMM CO	-	-	0	54	-	-	0	6	0	(2)	0	316	0	(3)	0	1	-	-	-	-	-	-
EMPLOYERS COMM UNION INS CO	-	-	4	0	-	-	-	-	-	-	-	-	-	-	-	-	0	3	-	-	-	-
FEDERAL INS CO.	-	-	-	-	1	0	-	-	1	0	3	0	-	-	19	0	3	(3)	0	(1)	-	-
FIREMENS FUND INS. CO.	14	0	11	0	-	-	3	0	13	0	6	696	(1)	(3)	0	(33)	7	2	7	(64)	-	-
FIDELITY CASUALTY OF N.Y.	-	-	30	0	3	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
FOREMOST INS. CO.	311	43	40	35	-	-	2	18	8	11	5	40	0	(1)	-	-	-	-	-	-	-	-
GLENS FALLS INS. CO.	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-	-	-
GREAT AMERICAN INS CO	24	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	(1)	-	-	-	-
HANOVER INS. CO.	-	-	-	-	-	-	6	26	50	(1)	9	0	6	1	7	66	2	17	257	531	156	609
HARBOR INS CO	-	-	-	-	-	-	-	-	-	-	24	0	31	0	14	0	3	8	1	26	-	-
HARTFORD INS CO.	52	37	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	7	0	(4)	-	-
HOME INSURANCE CO	-	-	-	-	-	-	-	-	-	-	2	0	2	2	2	0	-	-	-	-	-	-
IDEAL	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	3	1	0	-	-
INA	-	-	4	(1)	12	0	51	68	52	23	70	27	26	6	1	(1)	2	0	3	0	3	315
INDUSTRIAL INDEM INS CO.	-	-	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-	-	-	-	-
INDUSTRIAL INDEM INS CO OF AK	-	-	-	-	-	-	-	-	-	-	1	0	1	0	-	-	-	-	-	-	-	-
INS. CO. OF STATE OF PENN.	-	-	107	-	26	182	47	(9)	4	0	64	17	37	313	31	111	2	0	1	(1)	1	0
MIDLAND INS CO.	-	-	-	-	-	-	-	-	-	-	181	244	11	(22)	-	-	-	-	(58)	(4)	0	3
PACIFIC AMERICAN INS CO.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	0	615	0	(231)	0	(62)
STATE UNION FIRE INS CO.	-	-	-	-	-	-	-	-	-	-	19	0	4	9	7	15	89	8	89	0	12	4
NEW ZEALAND INS CO.	12	0	440	221	659	1,5	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
	-	-	-	-	-	-	-	-	124	373	96	(81)	1	(44)	0	110	0	(70)	0	1	-	-

PACIFIC INDEMNITY INS CO	0	(9)	0	5	[illegible]	3	–	–	–	–	–	–	–	–	–	–	–	–	–	–
PACIFIC INSURANCE CO	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
PAN AMERICAN INS CO.	–	–	46	7	258	335	920	688	361	512	301	1,011	154	876	357	(445)	–	–	–	–
PROPRIETORS INS. CO.	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	403	521	81
PURITAN INS. CO.	–	–	–	–	–	–	–	–	–	–	–	–	297	823	922	1,778	1,157	2,289	(175)	98	118
RANGER INS. CO.	–	–	3	–	812	463	82	29	87	203	77	427	122	128	–	–	–	–	–	–	–
REPUBLIC INS. CO	–	–	–	–	80	81	68	9	95	77	147	236	137	537	(8)	(22)	0	(6)	0	256	–
RELIANCE INS. CO	17	.3	1	(2)	1	0	273	679	527	717	885	648	(40)	(175)	0	183	0	(53)	–	–	–
ROYAL INDEMNITY CO.	–	–	–	–	2	0	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
STUYVESANT INS CO.	–	–	–	–	–	–	13	9	272	678	331	900	13	73	0	299	–	–	–	–	–
U.S. FIRE INS. CO	–	–	24	0	–	–	–	–	–	–	–	–	–	–	1	0	1	2,132	258	(1,310)	56
U.S. LIABILITY INS. CO.	–	–	–	–	–	–	–	–	–	–	361	193	190	191	(1)	207	0	(132)	0	(32)	–
YOSEMITE INS. CO.	5	0	–	–	–	–	–	–	0	2	–	–	–	–	–	–	–	–	–	–	–
TOTALS	923	132	1,298	511	1,765	1,618	1,439	1,843	1,789	2,821	2,354	5,136	1,379	2,789	2,194	4,096	1,316	6,429	1,292	277	1,453	1,2
LOSS RATIO	14.3%		39.9%		62.2%		128.1%		162.2%		218.2%		202.2%		186.7%		240.2%		21.4%		82.7%	

11 YEAR LOSS RATIO IL ÷ EP = LR 25,691 ÷ 18,512 = 138.8%

EP = EARNED PREMIUM IL = INCURRED LOSS WP = WRITTEN PREMIUM PL = PAID LOSS

PREPARED: ALASKA DIVISION OF INSURANCE SOURCE: ANNUAL INSURANCE REPORTS

DATE: 8-31-81 (GPS)

NON ADMITTED INSURERS 1970-1980- AVIMION EXPERIENCE (000) OMITTED	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL	WP	PL
	4,036	1,590	3,942	1,415	3,177	1,568	2,492	4,610	8,883	10,044	7,470	6,842	10,465	4,919	7,163	4,450	13,902	7,307	12 882	8,563		

POSITION PAPER - SENATE BILL 277

PREPARED BY: CENTRAL ALASKA INDEPENDENT INSURANCE AGENTS & BROKERS, INC
ALASKA SURPLUS LINES ASSOCIATION
ALASKA INDEPENDENT AGENTS & BROKERS ASSOCIATION
VARIOUS AGENTS AND BROKERS

Consumers are complaining about rates and Legislators have reacted with Senate Bill 277 instead of conducting research into the basic problem, being accidents.

We are opposed to Senate Bill 277 for the following reasons:

PROBLEMS

1. Senate Bill 277 appears to be based in part on the premise that Aviation Insurance is not available. This is simply not true.

2. Senate Bill 277 fails to address the subject of rate levels.

3. Senate Bill 277 apparently would create a State funded monopoly and appears to have been drafted without proper research into what the existing markets are.

4. Senate Bill 277 does not limit itself to the subject of air commerce which is vital to our State, but would also include the pleasure pilot. While subsidizing air commerce may or may not have a sound basis in logic, subsidizing the pleasure pilot would not unless we are also going to subsidize the pleasure boat owners, snow machiners, skiers, motorcyclists, etc.

5. Senate Bill 277 fails to recognize, which leads one to believe that Legislators are unaware of, the National Transportation Safety Board Report on Air Taxi Safety in Alaska (NTSB-AAS-80-3) and the Recommendations made in said report on pages 32 and 33.

6. Senate Bill 277 favors governmental involvement in a business in competition with free enterprise even though the present administration has stated vehemently for seven years that it believes in the free enterprise system.

7. Senate Bill 277 ignores the basic fact that airplanes and pilots kill and maim residents and tourists of our State each year at an alarming rate and attempts to place the blame upon the insurers who only pay on the results.

8. Senate Bill 277 appears to endorse and encourage the continuation of unsafe flying practices and puts a stamp of approval on the accident rate which is, if looked at from that point of view, simply outrageous and unacceptable, and to expect State's monies, i.e. all citizens, to share in these costs is incredible. We suggest that Legislators, pleasure pilots, air commerce and the insurance industry work in concert to accomplish what needs to be done to reduce the accident rate and save lives which will, when accomplished, reduce insurance costs.

We suggest that:

A. Serious consideration be given to the NTSB Report.

B. The effect of Rule 82, Supreme Court Decisions, Unilateral Repudiation of Release, Pre-Judgment Interest, and other unhealthy legalities which adversely effect our State's ability to attract Insurers in general and especially Aviation Insurers be examined.

9. In closing we respectfully request an opportunity to meet with you and other interested Legislators with representatives from the Insurer community (i.e. companies), the Alaska Surplus Lines Association, the Anchorage Agents Association and various attorneys who have all expressed a concern and who, like insurance brokers, have daily contact with the effected area of the law.

ASSESSABILITY

Senate Bill 277 has been drafted to create a reciprocal insurer which is not covered by the Guarantee Association of the State of Alaska. Again, it would appear that Legislators have failed to conduct proper research into the success of assessability of policy holders, especially in this class of business where the participants are, by the very nature of the industry, transient and assessing them would prove extremely difficult or impossible.

We would suggest that Legislators request input from other state Divisions of Insurance to determine the inability to "collect" from policy holders after the fact and request again that Legislators working in concert with representatives from the Insurer community, Alaska Surplus Lines Association, Anchorage Agents Association and various attorneys do a study on this particular problem.

Respectfully submitted,

Mark S Rauch

MARK S. RAUCH, CPCU
President, Central Alaska Independent Insurance Agents & Brokers, Inc.
President, Pacific Rim Insurance Brokers, Inc.

Linn R. Lockwood

LINN R. LOCKWOOD
President, Alaska Surplus Lines Association
President, Great Land General Agency

David Blackwood

DAVID BLACKWOOD
Senior Vice President, Reed Stenhouse Inc. of Alaska

Lois Clary

LOIS CLARY
Board Member, Alaska Surplus Lines Association
President, Bayly, Martin & Fay, Inc. of Alaska dba Clary Ins. Agency

Don Coates

DON COATES
Secretary-Treasurer, Alaska Surplus Lines Association
Corroon & Black/Dawson Co. Inc.

M R Howard

MICHAEL R. HOWARD
Account Manager, Rollins Burdick Hunter of Alaska Inc.

M. Russ Neville

M. RUSS NEVILLE
Committee Member, Central Alaska Independent Insurance Agents & Brokers
Committee Member, Alaska Independent Agents & Brokers Association
Board Member, Alaska Surplus Lines Association

ROGER SCHOENIGER
Director, Alaska Surplus Lines Association
Executive Vice President, Brady & Associates

KENNETH M. TAYLOR
Vice President, Alexander & Alexander Inc.

CHARLES WEIR
Alexander & Alexander, Inc.

F. B. Beattie, Jr. President
F. B. BEATTIE & CO., INC.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Committee Minutes: 4 May, 1981

Senator Mulcahy called the Senate Committee on Labor and Commerce meeting to order, with all members present except Senator Ziegler who was excused from a call of the Senate while conducting State business. SB 277 was before the committee for discussion; an act relating to aviation insurance.

In the absence of the sponsor, Senator Fergusson, co-sponsor began the testimony with an explanation of the circumstances which inspired the bill, and provided an overview of the aviation insurance problems facing many pilots in Alaska. He expounded on the high cost of insurance, the lack of competition, and the unregulated foreign market which dominates the industry. AICA was designed to provide relief for Alaskan pilots whose insurance rates have been effected since the withdrawal of domestic aviation insurance carriers.

Senator Mulcahy asked if there were questions for Senator Fergusson, and stated for the record that Senator Eliason (prime sponsor) was unable to attend the meeting and was excused from a call on the Senate while conducting business for the State.

The next testimony was provided by Tulinda Deegan, Alaska Air Carriers Association, who briefly discussed the insurance problem as a reflection of high accident rates, and the balance of her testimony was devoted to elaborating on the creation of a proposed aviation safety foundation. Citing data extracted from the NTSB report, she emphasized the importance of training and education to reduce accidents and lower insurance rates.

Craig Clark, Alaska Air Carriers Association, spoke about insurance rates and the increases in premiums for both commercial and general aviation. Explained that liberal court awards for liability damages have increased the rates, and these rates have impacted aircraft sales. Stressed the points expressed in the Air Carriers position paper: 1. Selective underwriting of aviation risks;

2. Recognition of aviation safety training
3. Wrongful death limit

Further stated that subsidization by the State (AICA) without the implimentation of the solutions he outlined (~~would result in~~) will perpetuate the high aviation accident rate and the ultimate failure of the proposed AICA program.

Senator Fahrenkamp asked about the Air Carriers disatisfactions; what recommendations are you making? Mr. Clark responded with a statement about premium increases.

Russ Neville testified next from the insurance industry's perspective explaining his back ground as an insurance broker for the past 15 years, 8 of which were in Alaska. Began his testimony with a reference to the rumor that Lloyds of London had withdrawn from the aviation market which was unfounded. Described the insurance market in London, 3 year cycles for their data, and that in a year period there were $48 million dollars in premiums collected and a subsequent $59 million dollars in paid claims, as an explanation of todays increased insurance costs. He further stated that insurance premium increases were also a reflection of liberal court awards (damages and liability), and the FAA. Mr. Neville cited the statistical data which he had compiled, making the report available to committee members, and expressed his support for the aviation safety foundation, and the conclusions of the NTSB report. Mr. Neville represented the Alaska Insurance agents and brokers association.

Mr. Wade Cochran, Sitka Air Services, testified in support of the legislation, expressing the need for guaranteed availability of aviation insurance to Alaskan pilots. He made the point that local interests are better able to asses the liabilities incurred, and that rate structures should be established with knowledge of local conditions. He addressed the economic incentives of SB 277, the possibility of insurance companies establishing safety programs to reduce accident rates (as they do with other types of insurance), and make varied rate structures available for pilots with demonstrated good aviation records. Further stated that the bill is not a subsidy (the initial money is to be refunded), and that passage of this bill should enhance air safety and provide markets for aviation insurance customers.

Ken Bellows, S.E. Alaska Pilots Association, expressed his feeling

that SB 277 addresses aviation industry needs. Mr. Bellows perspective on aviation is that of an air taxi operator, with an accident free record for 17 years of flying, and a premium increase this year of 50%. He stressed the inconsistencies of the insurance industry (rates), and the hesitancy of the insurance agents to make more than three inquiries of the London underwriters. The Southeast Pilots Association support this legislation.

The final testimony was provided by Don Koch, Division of Insurance, explaining briefly that the Department has taken a neutral position toward the bill.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

April 2, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 277

Thank you for your request for our position on SB 277. We have taken a neutral position on this legislation. The bill is modeled after AS 21.88 which was formed to resolve a market availability crisis for medical professional liability insurance in 1976. SB 277 establishes a similar corporation (A. I. C. A.) to write aviation hull and liability insurance for risks in Alaska. More than 90% of this market is written in nonadmitted, nonregulated markets such as Lloyds of London.

We have prepared a list of factors favoring creation of A. I. C. A. and a list of factors not favoring creation of A. I. C. A. These are enclosed for your review.

In addition, the Division of Insurance has prepared a section by section analysis and a chart of the aviation experience for 1970 to 1980 for insurers admitted to write insurance in this State. These materials are also enclosed for your perusal. The chart of aviation experience also lists the experience for nonadmitted insurers but the data is not completely reliable since it does not come directly from the insurer.

As I noted earlier, we do not take a position of the bill but we do have an interest in assuring that the proposal is workable and can be administered. This proposal does meet those provisions.

Very truly yours,

Charles R. Webber
Commissioner

CRW/tt3/7

08-H2LH

Enclosures

Factors opposing creation of A.I.C.A.

1. The principal argument in opposition is philosophical. This can be viewed as placing the State in the insurance business thus in competition with private industry.

2. There has been no documentation or substantiation that currently available rate levels are excessive.

3. There has been no documentation or substantiation that current marketing practices are inappropriate.

4. Viability of the program relies on the ability of A.I.C.A. to purchase reinsurance at reasonable rates. This ability has not been tested.

5. Two admitted markets are considering the provision of a market in Alaska. These are U.S.A.I.G. and A.O.A.

6. Formation of A.I.C.A. may tend to become a monopolistic or exclusive market. There may not be sufficient risks left to attract other markets including Lloyds.

7. There are other market segments that might equally argue for creation of similar corporations.

Factors favoring creation of A.I.C.A.

1. Primary market for coverage is Lloyds of London. This market writes 90% of the aircraft insurance. That market is not regulated.

2. Statistics from the unregulated market concerning loss levels are sketchy at best and do not permit realistic conclusions as to the experience in that market.

3. Quotations in current market are limited to initial broker.

4. Rates for general aviation hull have been reported as high as 20% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every eight (8) years.

5. Rates for commercial aviation hull have been reported as high as 16% which (if you assume 40% for expenses including commission) equates to a total loss of each aircraft every ten (10) years.

6. With aircraft insurance rates so high, it is difficult for aviation interests to develop enough additional funds to adequately capitalize an insurer. Only the State is in a position to provide necessary initial funds.

7. The Marine Highway System in Southeast and South Central is subsidized. The land highway system in Southeast, South Central and Central Alaska is subsidized. Many communities lie outside the subsidized systems and must depend on air travel. A.I.C.A. is only indirectly a subsidization.

8. Even though A.I.C.A. is a State created, State owned corporation, it operates independent of the State and is, thus, not subject to the bureaucratic inefficiencies that may exist in government.

9. Funds for insurance are currently leaving State and the country, thus, contributing to balance of trade deficit. If the rate levels are not excessive, there would still be an advantage to having a domestic entity provide coverage, not the least of which is expediting claims.

10. Coverage will be available through any agent or broker licensed in Alaska.

11. Lloyds is traditionally slow to pay claims.

SB 277
An Act Relating to Aviation Insurance
Section by Section Analysis

*Section 1.

Provides insurance for liability and hull damage.

*Section 2.

- 21.86.010. Corporation Established. This section establishes a corporation of the state which is to be operated separate from the state.

- 21.86.020. Corporation Board of Directors. The Board of Directors is to be appointed by the Governor and confirmed by the Legislature. The board is comparable to the Board of Directors of an insurance company. There are nine members serving terms of three years. The make up of the board is

  1 Member from a Part 121 scheduled air carrier;
  2 Members from air taxis;
  2 Members from nonbusiness aviation;
  2 Members from the insurance industry; and
  2 Members from the public.

  The director of insurance has access and notice to all meetings. He also approves the level of compensation to board members. 020(f) defines the liability of a board member.

- 21.86.030. Corporation Plan of Operation. This section provides for development of a plan of operation roughly equivalent to the bylaws of a corporation. It lists in general the items that must be addressed in the plan of operation.

- 21.86.040. Powers and Duties of the Corporation. Subsection (a) lists the functions that the corporation must perform including the establishment of underwriting standards, the underwriting of risk, the issuance of policies, the development and filing of rates, the meeting of its obligations under policies issued, and the gathering and reporting of statistics.

  Subsection (b) permits the corporation to hire employees, negotiate reinsurance, expand coverages, borrow money, enter into contracts, sue or be sued, provide services other than insurance, negotiate and contract for management services, and do whatever else is necessary to carry out the duties of the corporation.

- 21.86.050. Establishment of Risk Standards. This section provides that the corporation may refuse coverage.

- 21.86.060. Limits on Liability Policies. This section excludes punitive damages coverage and provides for the approval of the policy limits offered by the director of insurance.

- 21.86.070. Reporting of Claims. This section requires an annual report of claims activity to the director to be available to the public and the Alaska Transportation Commission.

- 21.86.080. Termination. This section provides conditions for termination of the operation of the corporation and for reactivation of the corporation following a termination.

- 21.86.090. Premium Tax. This section places the premium tax structure for the corporation on the same basis as that applicable to a domestic corporation under AS 21.09.210.

- 21.86.100. Rates. This section provides for categories of risk, that rates may not be excessive, inadequate or unfairly discriminatory, lists items that may be considered in rate review and requires an annual review of rates.

- 21.86.110. Assessments on Insureds. This is a provision that is not usual to a stock corporation which in a sense is what we would have with the creation of this corporation. The State of Alaska would be the holding company. Assessment provisions are usual to reciprocal exchanges and to mutual insurance companies where the insuring entity is owned by the persons insured. It is a form of solvency protection in the event of a financial failure. Provision is made for extinguishment of the assessment provision when surplus reaches a certain level and limits the maximum assessment to 50% of an annual premium.

- 21.86.120. Refunds to Insureds. This section provides for participation by insured persons in the excess profits of the corporation in proportion to his earned premium for the particular year.

- 21.86.130. Payment of Premiums; Cancellation of Insurance. This section allows installment payment of premium, and for cancellation due to nonpayment of premium.

- 21.86.140. Sale of Corporation. This section provides that the corporation may be sold to a private corporation under conditions approved by the director.

- 21.86.200. Fund Established. This section establishes a loan fund in the Department of Commerce and Economic Development in the amount of $30,000,000 with a 7% interest rate.

- 21.86.960. Applicability of Other Laws in this Title. This section makes this new Chapter 86 exclusive of the insurance code (Title 21) except as provided within the chapter. External insurance statutes applicable to the corporation are

AS 21.06.090. This section of law is the director's authority to promulgate regulations under AS 21.

AS 21.06.120. Director's authority to examine an insurer.

AS 21.06.140. Sets forth the procedure for examining an insurer.

AS 21.06.160. Provides that examination expense will be borne by the examined insurer.

AS 21.06.250. Fees and licenses section.

AS 21.09.180. Provides that the direc[illegible] attorney for service of process.

AS 21.09.190. Provides for serving process and sets the time to plead.

AS 21.09.200. Requires an annual statement.

AS 21.09.250. Defines unlawful acts related to payment of commission to unlicensed producers.

AS 21.09.280. Sets forth the power to appoint general agents or managers.

AS 21.12.020(b)-(e). Deals with reinsurance.

AS 21.18. This chapter regulates assets and liabilities.

AS 21.21. This chapter deals with the regulation of investments.

AS 21.24. This chapter addresses the administration of deposits.

AS 21.36. This chapter regulates and prohibits unfair trade practices.

- 21.86.970. Meetings. This section provides that meetings of the corporation are not subject to AS 44.62.310 concerning state agency meetings being open to the public.

- 21.86.980. Definitions.

*Section 3.

Provides for staggered terms for board members.

*Section 4.

Effective date clause.

AVIATION EXPERIENCE - ADMITTED INSURERS - 1970 TO 1980 (000) OMITTED
STATE OF ALASKA

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL	EP	IL
AETNA CASUALTY & SURETY CO	–	–	–	–	17	144	0	13	0	(1)	–	–	–	–	–	–	–	–			–	–
ALLSTATE INSURANCE CO	–	–	–	–	21	18	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
AMERICAN BANKERS	–	–	–	–	–	–	–	–	–	–	–	–	–	–	82	138	89	(173)	–	–	–	–
AMERICAN HOME INS CO	–	–	0	64	0	(84)	–	–	12	0	21	0	0	22	2	2	72	10	38	443	59	31
AMERICAN MOTORISTS INS CO	–	–	–	–	1	0	–	–	–	–	1	0	–	–	–	–	–	–	–	–	–	–
ARGONAUT INS CO	–	–	–	–	11	6	2	0	5	1	112	339	0	(36)	0	(14)	–	–	–	–	–	–
ATLANTIC	41	22	90	48	81	89	71	92	58	59	70	10	81	44	122	42	131	109	147	87	245	239
CALIFORNIA INSURANCE CO.	–	–	–	–	–	–	–	–	5	0	–	–	–	–	–	–	–	–	–	–	–	–
COMMERCIAL INS CO.	407	35	466	(14)	413	(8) 3	428	369	69	(22)	(2)	(15)	–	–	–	–	–	–	–	–	–	–
FEDERAL INSURANCE INS. CO.	–	–	–	–	–	–	–	–	–	–	–	–	69	43	679	1,435	378	1,055	352	345	721	61
GLACIER ANNUITANT INS CO	–	–	–	–	–	–	–	–	–	–	–	–	248	726	437	256	218	625	(2)	(24)	0	(26
GOLD STAR	21	(1)	49	10	10	2	0	(2)	0	(1)	–	–	0	(10)	0	50	0	(4)	0	(2)	–	–
GUARDIAN FIRE INS CO	1	0	1	7	–	–	–	–	–	–	–	–	–	–	–	–	0	(1)	0	(1)	–	–
GUARD CO	–	–	0	64	–	–	0	5	0	(2)	0	316	0	(3)	0	1	–	–	–	–	–	–
EMPLOYERS CASUAL UNDERWRITERS	–	–	4	0	–	–	–	–	–	–	–	–	–	–	–	–	0	3	–	–	–	–
FEDERAL INS CO.	–	–	–	–	1	0	–	–	1	0	3	0	–	–	19	0	3	(3)	0	(1)	–	–
FIREMANS FUND INS.	14	0	11	0	–	–	3	0	13	0	6	696	(1)	(3)	0	(33)	7	2	7	(44)	–	–
GEORGIA CASUALTY & SURETY	–	–	30	0	3	0	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
FOREMOST INS CO.	311	43	40	35	–	–	2	18	8	11	5	40	0	(1)	–	–	–	–	–	–	–	–
GUENS FALLS INS CO.	–	–	–	–	–	–	–	–	1	0	–	–	–	–	–	–	–	–	–	–	–	–
GREAT AMERICAN INS CO	34	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0	(1)	–	–	–	–
HARBOR INS. CO.	–	–	–	–	–	–	6	26	20	(1)	1	0	6	1	7	66	2	17	257	531	154	607
HARBOR INS CO	–	–	–	–	–	–	–	–	–	–	24	0	31	0	14	0	5	8	1	26	–	–
HARTFORD INS CO.	52	31	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0	7	0	(4)	–	–
HOME INSURANCE CO	–	–	–	–	–	–	–	–	–	–	2	0	2	0	2	0	–	–	–	–	–	–
IDEAL	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0	3	1	0	–	–
IGA	–	–	9	(1)	12	0	31	68	32	23	70	27	26	6	1	(1)	2	0	3	0	3	315
INDEMNITY INSURANCE CO.	–	–	–	–	–	–	–	–	–	–	1	0	–	–	–	–	–	–	–	–	–	–
INSURANCE CO OF N AM	–	–	–	–	–	–	–	–	–	–	1	0	1	0	–	–	–	–	–	–	–	–
INTERCO INS CO OF ALASKA	–	–	107	–	46	182	47	(4)	4	0	64	17	37	313	51	111	2	0	1	(1)	1	0
KEMPER INS CO.	–	–	–	–	–	–	–	–	–	–	189	266	11	(25)	–	–	–	–	(38)	(6)	0	3
LAKE AMERICAN INS CO.	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	0	615	0	(321)	0	(61
LAKE UNION FIRE INS.	–	–	–	–	–	–	–	–	–	–	19	0	4	9	7	15	31	1	89	0	12	4
LAND ALASKA INS CO.	12	0	440	321	659	135	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
OLD REPUBLIC INS. CO.	–	–	–	–	–	–	–	–	124	373	93	(31)	1	(46)	0	110	0	(70)	0	1	–	–
PACIFIC INDEMNITY CO	0	(9)	0	5	0	3	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
PACIFIC INSURANCE CO	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
PAN AMERICAN INS CO.	–	–	26	7	255	535	430	688	361	512	361	1,011	134	376	357	(443)	–	–	–	–	–	–
PROVIDENCIAL INS. CO.	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	403	521	81	(9
PUEBLO INS. CO.	–	–	–	–	–	–	–	–	–	–	–	–	277	573	432	1,330	1,157	2,481	(175)	18	118	31
RANGER INS. CO.	–	–	3	–	812	43	82	29	97	203	77	427	122	128	–	–	–	–	–	–	–	–
REPUBLIC INS. CO.	–	–	–	–	30	81	68	9	93	77	147	216	137	337	(8)	(22)	0	(6)	0	256	–	–
ALASKA INS CO	17		1	(1)	1	0	375	679	327	717	935	648	(40)	(175)	0	183	0	(93)	–	–	–	–
ROYAL INSURANCE CO.	–		–	–	2	0	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–	–
SAFEWAY STORES INS CO.	–	–	–	–	–	–	13	9	212	678	331	900	13	73	0	379	–	–	–	–	–	–
U.S. FIRE INS CO	–	–	34	0	–	–	–	–	–	–	–	–	–	–	1	0	1	2,132	258	(1,30	56	0
U.S. CASUALTY INS. CO.	–	–	–	–	–	–	–	–	–	–	361	193	170	191	(1)	247	0	(132)	0	00	–	–
WESTERN INS. CO.	5	0	–	–	–	–	–	–	0	2	–	–	–	–	–	–	–	–	–	–	–	–
TOTALS	923	132	1,318	511	1,765	1,018	1,439	1,843	1,739	2,021	2,554	5,134	1,377	2,781	2,197	4,046	2,676	6,429	1,292	277	1,453	1,22
LOSS RATIO	14.3%		39.1%		62.2%		128.1%		162.2%		218.2%		202.2%		184.7%		240.2%		21.4%		82.7%	

10 YEAR LOSS RATIO IL ÷ EP = LR 25,491 ÷ 18,512 = 138.8%

EP = EARNED PREMIUM IL = INCURRED LOSS WP = WRITTEN PREMIUM PL = PAID LOSS

PERIOD: ALASKA DIVISION OF INSURANCE ANNUAL INSURANCE REPORT
1981 & 1982 (EP)

AVIATION EXPERIENCE - NON ADMITTED INSURERS - 1970 TO 1980 (000) OMITTED

STATE OF ALASKA

	1970		1971		1972		1973		1974		1975		1976		1977		1978		1979		1980	
	P	L	P	L	P	L	P	L	P	L	P	L	P	L	P	L	P	L	P	L	P	L
ALASKA INSURANCE CO	1	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	0	-	-	*2	n/a
ANCHORAGE + ALEXANDER	639	523	687	237	607	787	535	660	686	198	984	678	1,579	1,193	2,233	1,629	2,492	3,004	2,653	3,965	2,768	4,189
AMERICAN HOME SECURITY ASSUR.	-	-	3	0	-	-	22	0	106	104	241	0	261	384	183	7	361	210	504	367	447	348
ARCTIC ALASKA INS. INC.	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	0	7	0	31	3	-	-
ARCO + DIVISION, ETC	-	-	-	-	-	-	22	0	-	-	-	-	-	-			-	-	-	-	-	-
BAILU, HAMLIN + FAY INC ET AL	-	-	-	-	-	-	-	-	66	55	119	55	28	0	386	135	1,132	879	1,624	940	*1,363	n/a
BLANK + ASSOCIATES	-	-	-	-	-	-	-	-	-	-	-	-	-	-	64	0	2481	1,957	2,038	1,755	*3,346	n/a
BUNKER HILL INSURANCE AGCY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	1	0	-	-	-	-	-	-
CANNON + BLAND JOHNSON + ANN	180	178	170	0	143	0	-	-	-	-	(2)	0	-	-	83	0	224	211	119	177	*42	11
CORDELL + BLAKE/JOHNSON + BLAKE	-	-	-	-	-	-	-	-	-	-	-	-	-	-	8	0	15	0	16	0	-	-
DAWSON BLAKE/JOHNSON + ANN	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	6	0	7	0	*25	n/a
DAWSON BLAKE/JOHNSON SEA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	*81	n/a
CANNON DAWSON + CO	42	5	6	43	23	43	3	11	22	7	123	12	1,103	676	688	3,672	193	773	374	0	246	72
ROBERT GERSON AGCY	-	-	-	-	-	-	-	-	-	-	32	0	51	0	-	-	-	-	-	-	-	-
ROBERT O. FLEMING + CO	111	0	87	16	17	1	34	0	36	0	69	0	7	0	-	-	-	-	-	-	-	-
DOUGLAS WOOD ASSOC. AGCY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	38	0	325	0	56	84
GUSTAVSON, INC	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	59	340	(3)	0	-	-
JOHN PLUMER ASSOCIATES	55	42	10	14	13	0	43	27	19	7	22	27	22	7	34	225	23	0	81	0	99	0
MARSH & MCLENNAN - ANCH	771	266	859	712	697	473	688	1,490	1,190	2,730	1,944	2,783	2,722	0	1,997	(1,751)	650	(538)	196	28	*258	n/a
MARSH & MCLENNAN - SEA	-	-	-	-	-	-	-	-	191	433	531	0	111	10	44	55	8	42	7	0	6	0
P.B. BOOTHE + CO	-	-	-	-	-	-	-	-	-	-	-	-	113	132	133	182	523	12	1,363	0	*3,031	n/a
PAUL S. JAMES	-	-	-	-	-	-	-	-	-	-	-	-	89	626	330	97	66	0	62	0	18	4
RACHLAND AGCY, INC	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	20	0	239	n/a
RAFFIN + CO INC	-	-	-	-	-	-	-	-	7	0	11	4	1	0	-	-	8	0	(1)	0	-	-
RANKIN & CO INC.	-	-	-	-	-	-	-	-	13	0	-	-	-	-	-	-	5	0	-	-	-	-
HANSEN + ROWLAND INC	-	-	-	-	-	-	-	-	57	45	53	119	2	56	-	-	-	-	-	-	-	-
WEST INSURED AGENCIES	-	-	-	-	5	0	(2)	0	-	-	59	0	406	31	288	90	243	13	528	191	*234	n/a
JOHNSON + HIGGINS	-	-	-	-	-	-	15	0	40	4	41	155	97	20	-	-	115	0	9	0	22	0
ALEX JOHNSON	-	-	-	-	-	-	-	-	2	13	4	0	-	-	-	-	-	-	-	-	-	-
CROWLEY MARINE SERVICE	198	0	138	111	(2)	32	338	304	391	312	790	200	-	-	-	-	-	-	-	-	-	-
JOHN L. AIR BOARD	6	0	129	0	90	0	(51)	0	-	-	-	-	132	90	181	114	11	0	-	-	-	-
MARSH + MCLENNAN AK	-	-	-	-	-	-	-	-	-	-	-	-	141	0	165	0	-	-	38	0	160	0
MARSH + MCLENNAN SEA	-	-	-	-	48	0	2	0	51	0	155	0	1,530	0	1,127	0	1463	0	1,241	0	*1,618	n/a
NEWMAN INSURANCE AGENCY	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	42	0	* 57	n/a
PACIFIC INTERNATIONAL A/M	130	41	79	62	79	83	202	70	156	134	155	87	206	94	149	63	125	250	1	145	-	-
PALMER, JOSEPHSON, AGCY	195	198	172	98	93	72	16	13	14	4	18	0	17	24	18	36	10	24	9	0	4	0
RANDOLPH BOND AGENCY	-	-	-	-	-	-	-	-	-	-	-	-	6	0	-	-	-	-	-	-	-	-
ALEXANDER AK	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	80	0	*121	n/a
ALEX SHAW - ALASKA	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	4	0	9	0	-	-
SHAW, BERGER + MUNSON	490	306	1,246	113	958	112	731	2,112	2,109	5,173	2,235	1,535	2,075	1,344	1,682	580	1,863	131	1,184	33	*1,785	n/a
SAFAR + TODD	18	0	5	1	2	0	2	0	1	0	-	-	-	-	-	-	-	-	-	-	-	-
SEATTLE + RAINIER	61	7	33	8	23	2	9	1	9	44	8	2	1	0	-	-	-	-	-	-	-	-
SPECIALTY RISK UNDERWRITERS			-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	11	0	*55	n/a
STEWART + SCOTT + CO	(35)	0	-	-	16	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
C.A. STREB	(40)	0	574	0	104	0	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
SEVIER RITTS INS. INC.	17	0	6	0	6	8	7	0	19	0	81	0	132	66	831	79	583	0	506	1,213	n/a	n/a
VOIGHT WINGER + CO	-	-	-	-	-	-	-	-	4	0	(1)	0	10	0	-	-	-	-	1	0	-	-
WORLD W/W UNDERWRITERS	-	-	-	-	-	-	-	-	1	0	-	-	1	0	1	0	12	0	23	0	*25	n/a
	4,034	1,510	3,942	1,445	3,117	1,368	2,972	4,840	5,246	10,044	7,470	5,842	10,965	4,917	10,938	6,064	13,902	7,307	12,892	8,343	n/a	n/a
	37.4%		36.9%		43.9%		162.9%		191.5%		78.2%		44.8%		55.4%		52.6%		64.7%		n/a	

10 YEAR LOSS RATIO 1970-1979 — L ÷ P = LR — 51,172 ÷ 74,520 = 68.7% (000) OMITTED

P = PREMIUM
L = LOSSES
LR = LOSS RATIO
* = PRELIMINARY DATA
n/a = NOT AVAILABLE

PREPARED BY: ALASKA DIVISION OF INSURANCE
SOURCE: ANNUAL INSURANCE REPORTS
DATE: APRIL 2, 1981

SPECIAL RISK

F. B. BEATTIE & CO., INC.

BROKERS

April 13, 1981

Mr. Don Koch
State of Alaska
Department of Commerce & Economic Development
Pouch D
Juneau, Alaska 99811

RE: ALASKA SENATE BILL 277
F. B. BEATTIE & CO., INC.
AVIATION LOSSES 1979/1980

Dear Mr. Koch:

We understand from some of our friends in Alaska that Alaska Senate Bill 277 was recently up for Committee review in the Alaska Legislature. According to the report given us, this review involved the discussion of Aviation Insurance loss figures as reported to the Alaska Insurance Department by various agencies and general agencies underwriting this business on behalf of Lloyd's.

In that regard we have been reminded that the Aviation Loss Report filed by F. B. Beattie & Co., Inc. for the year 1979 was incomplete in that it showed no losses for that year. Since that report was incomplete and because of the discussion of Senate Bill 277, we now hasten to correct the record.

Enclosed you will please find a corrected 1979 Alaska Loss Report for F. B. Beattie & Co., Inc., showing losses on all classes of business underwritten by this company in 1979, including Aviation business. We are also enclosing our 1980 report, showing the same information by category for last year. We trust that this report letter with enclosures will give you a more accurate review of our current Alaska Aviation Insurance picture for reference in connection with the subject Senate Bill.

If you have any questions concerning these loss statistics, please do not hesitate to check with us so that we may assist as appropriate.

Yours very truly,

FBB/p

F. B. Beattie, Jr.

Enclosures

BCC RUSS NEVILLE - Brady & Associates

ALASKA ANNUAL STATEMENT OF SURPLUS LINE BUSINESS TRANSACTED 19.80

F. B. BEATTIE & CO., INC. (Name of Surplus Line Broker)

#693 (License Number)

Exhibit 1-A

LOSSES PAID AND INCURRED

Line of Business	Actual Losses Paid to Policyholders (deduct salvage)	Plus Claim Emp.	Total Losses Inc.	Reserves
1. Fire & Allied (a) Habitational	Ø	Ø	Ø	Ø
(b) Homeowners	Ø	Ø	Ø	Ø
(c) Commercial	13,388.14	1,237.40	14,625.54	1,456.21
2. Inland Marine (DIC, Earthquake, ARBR)	43,321.96	21,820.02	65,141.98	2,473,056.96
3. Ocean Marine	Ø	Ø	Ø	Ø
4. Professional Liability (a) Medical	Ø	Ø	Ø	Ø
(b) Attorneys	Ø	Ø	Ø	Ø
(c) Architects & Engineers	?	?	?	?
(d) Other	?	?	?	?
5. General Liability	31,540.59	2,375.00	33,915.59	250,000.00
6. Auto Liability (a) Private Passenger	Ø	Ø	Ø	Ø
(b) Commercial	Ø	Ø	Ø	Ø
7. Auto Physical Damage (a) Private Passenger	Ø	Ø	Ø	Ø
(b) Commercial	Ø	Ø	Ø	Ø
8. Workmen's Compensation (a) Aviation	38,366.04	1,709.50	40,075.54	21,717.77
(b) Other	Ø	Ø	Ø	Ø
9. Aircraft – All Perils	1,586,287.01	36,072.74	1,622,360.55	3,117,172.16
10. Other (Identify)	Ø	Ø	Ø	Ø
TOTAL	1,712,904.54	63,214.66	1,776,119.20*	5,863,403.10
				1,776,119.20 *

TOTAL LOSSES/EXPENSES/RESERVES INCURRED $7,639,522.30

ALASKA ANNUAL STATEMENT OF SURPLUS LINE BUSINESS TRANSACTED 1979

F. B. BEATTIE & CO., INC. (Name of Surplus Line Broker)

#693 (License Number)

Exhibit 1-A

LOSSES PAID AND INCURRED

Line of Business	Actual Losses Paid to Policyholders (deduct salvage)	Plus Claim Emp.	Total Losses Inc.	Reserves
1. Fire & Allied (a) Habitational	Ø	Ø	Ø	Ø
(b) Homeowners	Ø	Ø	Ø	Ø
(c) Commercial	615.37	97.20	712.57	105,183.78
2. Inland Marine (DIC, Earthquake, ARBR)	78,935.10	3,940.92	82,876.02	375,607.09
3. Ocean Marine	Ø	Ø	Ø	Ø
4. Professional Liability (a) Medical	Ø	Ø	Ø	Ø
(b) Attorneys	?	?	?	?
(c) Architects & Engineers	?	?	?	?
(d) Other	?	?	?	1,880.00
5. General Liability	Ø	259.30	259.30	27,419.88
6. Auto Liability (a) Private Passenger	Ø	Ø	Ø	Ø
(b) Commercial	Ø	Ø	Ø	Ø
7. Auto Physical Damage (a) Private Passenger	Ø	Ø	Ø	Ø
(b) Commercial	Ø	Ø	Ø	Ø
8. Workmen's Compensation (a) Aviation	43,424.11	1,621.80	45,045.91	128,197.70
(b) Other	Ø	Ø	Ø	Ø
9. Aircraft – All Perils	282,616.48	18,722.50	300,883.98	580,822.67
10. Other (Identify)	Ø	Ø	Ø	Ø
TOTAL	405,136.06	24,641.72	429,777.78*	1,219,111.12

429,777.78 *

TOTAL LOSSES/EXPENSES/RESERVES INCURRED $1,648,888.90

ROSEMURGY SEA

APR 30 IQ
TO JUANITA BROWN
ROLLINS BURDICK & HUNTER
ANCHORAGE

AVIATION LIABILITY CLAIMS ADJUSTED & RESERVED BY ROSEMURGY & CO

BY NUMBER OF CLAIMS WE MEAN EACH INDIVIDUAL KILLED OR INJURED IN AN AIRPLANE ACCIDENT IN ALASKA. THIS DOES NOT INCLUDE HULL CLAIMS:

1978	40 CLAIMS	TOTAL PD $17,942,769	O/S RESERVES $10,000
1979	22 CLAIMS	TOTAL PD $ 1,626,404	O/S RESERVES $6,255,000
1980	68 CLAIMS	TOTAL PD $ 7,931,207	O/S RESERVES $7,062,500

WE TRUST THIS INFORMATION IS OF ASSISTANCE TO YOU.

REGARDS

R J ROSEMURGY
•
REH ALASKA AHG
V

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REED STENHOUSE

Reed Stenhouse Inc. of Alaska
International Insurance Brokers
4794 Business Park Blvd., Suite 1
Anchorage, Alaska 99503
907 274-0694 Telex 090-25-214

April 30, 1981

Mr. Donald P. Koch
Chief of Market Surveillance
Division of Insurance
State of Alaska
Department of Commerce
and Economic Development
Pouch D
Juneau, Alaska 99811

Re: Alaska Surplus Lines Filings

Dear Don:

It has been brought to my attention that we did not report losses for aviation hulls and liabilities in our 1979 and 1980 surplus lines filings. The following figures represent losses paid by aviation hull and liability underwriters on behalf of our clients and not otherwise reported for these policy years in question:

1979 Aviation hulls - $167,800.00
1980 Aviation hulls - $119,522.23

I hope this is of some assistance to you in compiling your premium and loss summaries.

Sincerely,

David A. Blackwood
Senior Vice President

cc: Mr. Russ Neville
Brady and Associates

Rollins Burdick Hunter of Alaska, Inc.
840 K Street, Anchorage, Alaska 99501 / Telephone 907 279-2422 / Telex 25-225

DIV.
MAY 1 10 10 AM '81

April 28, 1981

ROLLINS BURDICK HUNTER

Mr. Don Koche
State of Alaska
Department of Commerce
Division of Insurance
Pouch D
Juneau, Alaska 99811

Re: Insured Aviation Losses

Dear Mr. Koche:

I am taking this opportunity to give you some further information insofar as aviation losses in the State of Alaska. Currently, the information that the State of Alaska has shows that Dougan, Eader, Reynolds & Wheller wrote $838,000 in premium in 1978 and $325,000 premium in 1979 for aviation insurance. In these two years no losses were reported.

Rollins Burdick Hunter is now affiliated with Dougan, Eader, Reynolds & Wheller and we have requested that they review their files as to losses in 1978 and 1979. We have been advised that in 1978 they paid losses of $1,037,089, and in 1979 losses amounted to $305,349.

This gives us total losses in the years 1978, 1979 and 1980 of $1,426,438, with premium generated of $1,218,000, with a loss ratio of 117%.

I am in hopes that this further information will help the legislature in their consideration of Senate Bill 277, and in understanding why the

insurance cost to the aviation community in the State of Alaska have risen as they have in the past few years.

Sincerely,

ROLLINS BURDICK HUNTER OF ALASKA, INC.

M. R. Howard

Michael R. Howard

MRH/tsh

cc: Russ Neville
Brady & Associates
310 K Street
Anchorage, Alaska 99501

Sec. 21.06.180. Hearings. (a) The director may hold hearings for any purpose within the scope of this title considered by him to be necessary.

(b) The director shall hold a hearing if required by a provision of this title, or upon written demand by a person aggrieved by an act, threatened act or failure of the director to act, or by a report, regulation or order of the director (other than an order for the holding of a hearing, or an order on hearing or under it). A demand shall specify the grounds to be relied upon at the hearing as a basis for the relief. Unless postponed by mutual consent or for good cause shown, the hearing shall be held within 30 days after receipt by the director of the written demand.

(c) If within the 30-day period the director does not either (1) grant the hearing, or (2) issue his order refusing the hearing, as to the previous report, regulation, or order as to which the person so claims to be aggrieved, the hearing shall be considered to have been refused. (§ 1 ch 120 SLA 1966)

Sec. 21.06.190. Stay of action. (a) A demand for a hearing received by the director before the effective date of an order issued by him or within 10 days after an order is delivered, shall stay the effectiveness of the order pending the hearing and an order made thereon, except as to action taken or proposed (1) under an order on hearing, or (2) under an order under and supplemental to an order on hearing, or (3) under an order based upon impairment of assets or unsound financial condition of an insurer.

(b) If an automatic stay is not provided for and the director after receipt of a written request for a stay fails to grant it, the person aggrieved may apply to the superior court for a stay of the director's proposed action. (§ 1 ch 120 SLA 1966)

Sec. 21.06.200. Notice of hearing. Not less than 20 days in advance the director shall give notice of the time and place of the hearing, stating the matters to be considered at the hearing. If the persons to be given notice are not specified in the provision under which the hearing is held, the director shall give notice to all persons whose pecuniary interests are to be directly and immediately affected by the hearing. (§ 1 ch 120 SLA 1966)

Sec. 21.06.210. Hearing procedure. (a) The director shall allow a party to the hearing to appear in person and by counsel, to be present during the giving of all evidence, to have a reasonable opportunity to inspect all documentary evidence and to examine witnesses, to present evidence in support of his interest, and to have subpoenas issued by the director to compel attendance of witnesses and production of evidence in his behalf.

(b) The director shall permit to become a party to the hearing by intervention, if timely, any person who was not an original

party to the proceeding and whose pecuniary interests are to be directly and immediately affected by the director's order made upon the hearing.

(c) Formal rules of pleading or evidence need not be observed at a hearing.

(d) Upon written request seasonably made by a party to the hearing and at that person's expense, the director shall cause a full stenographic record of the proceedings to be made by a competent reporter. If transcribed, a copy of the stenographic record shall be furnished to the director, without cost to the director or the state, and shall be a part of the director's record of the hearing. If transcribed a copy of the stenographic record shall be furnished to any other party to the hearing at the request and expense of the other party. If no stenographic record is made or transcribed, the director shall prepare an adequate record of the evidence and of the proceedings.

(e) Upon written request of a party to a hearing filed with the director within 30 days after an order made pursuant to a hearing has been mailed or delivered to the persons entitled to receive it, the director may grant a rehearing or reargument of the matters involved in the hearing. Notice of the rehearing or reargument shall conform to the requirements of § 200 of this chapter. (§ 1 ch 120 SLA 1966)

Sec. 21.06.220. Order on hearing. (a) In conducting the hearing the director shall sit in a quasi-judicial capacity. Within 30 days after termination of the hearing, rehearing, or reargument, the director shall make his order on hearing, covering matters involved in the hearing, rehearing or reargument, and shall give a copy of the order to the same persons given notice of the hearing.

(b) The order shall contain a concise statement of the facts found by the director, his conclusions, and the matters required by § 100 of this chapter.

(c) The order may affirm, modify, or nullify a previous action or may constitute the taking of new action within the scope of the notice of hearing. (§ 1 ch 120 SLA 1966)

Sec. 21.06.230. Appeals from the director. A person aggrieved by an order of the director may appeal the order to the superior court, using procedures provided by court rule. (§ 1 ch 120 SLA 1966)

Sec. 21.06.240. Hearings inapplicable. The hearing and appeal procedures provided for in §§ 180—230 of this chapter do not apply to matters covered by ch. 39 of this title. (§ 1 ch 120 SLA 1966)

Sec. 21.06.250. Fees and licenses. (a) The director shall collect required fees in advance. The fees are as follows:

Chapter 78. Rehabilitation and Liquidation.

Section
10. Jurisdiction of delinquency proceedings
20. Commencement of delinquency proceedings
30. Injunctions
40. Grounds for rehabilitation
50. Grounds for liquidation
60. Grounds for conservation—Foreign insurers
70. Grounds for conservation—Alien insurers
80. Grounds for ancillary liquidation
90. Order of rehabilitation
100. Order of liquidation, domestic insurers
110. Order of liquidation, alien insurers
120. Order of conservation or ancillary liquidation of foreign or alien insurers
130. Conduct of delinquency proceedings against domestic and alien insurers
140. Conduct of delinquency proceedings against foreign insurers
150. Claims of nonresidents against domestic insurers
160. Claims against foreign insurers
170. Form of claim
180. Priority of certain claims
190. Attachment and garnishment of assets
200. Uniform Insurers Liquidation Act
210. Deposit of money collected
220. Exemption from fees
230. Borrowing on pledge of assets
240. Date rights fixed on liquidation
250. Voidable transfers
260. Priority of claims for compensation
270. Offsets
280. Allowance of certain claims
290. Time to file claims
300. Report and petition for assessment
310. Order and levy of assessment
320. Assessment prima facie correct
330. Definitions

Sec. 21.78.010. Jurisdiction of delinquency proceedings. (a) The court is vested with exclusive original jurisdiction of delinquency proceedings under this chapter, and is authorized to make all necessary and proper orders to carry out the purposes of this chapter.

(b) Delinquency proceedings under this chapter constitute the sole and exclusive method of liquidating, rehabilitating, reorganizing or conserving an insurer, and no court may entertain a petition for the commencement of the proceedings unless it has been filed in the name of the state on the relation of the director.

(c) An appeal shall lie to the supreme court from an order granting or refusing rehabilitation, liquidation, or conservation, and from every other order in delinquency proceedings having the character of a final order as to the particular portion of the proceedings embraced therein. (§ 1 ch 120 SLA 1966)

Sec. 21.78.020. Commencement of delinquency proceedings. The director shall commence the proceedings by application to the court for an order directing the insurer to show cause why the director should not have the relief prayed for. On the return of the order to show cause, and after a full hearing, the court shall either deny the application or grant the application, together with other relief which the nature of the case and the interest of the policyholders, creditors, stockholders, members, subscribers or the public may require. (§ 1 ch 120 SLA 1966)

Sec. 21.78.030. Injunctions. (a) Upon application by the director for an order to show cause, or at any time thereafter, the court may without notice issue an injunction restraining the insurer, its officers, directors, stockholders, members, subscribers, agents and all other persons from the transaction of its business or the waste or disposition of its property until the further order of the court.

(b) The court may at any time during a proceeding under this chapter issue injunctions or orders which may be considered necessary to prevent interference with the director or the proceeding, or waste of the assets of the insurer, or the commencement or prosecution of actions, or the obtaining of preferences, judgments, attachments or other liens, or the making of any levy against the insurer or against its assets or any part of its assets.

(c) No bond may be required of the director as a prerequisite for the issuance of an injunction or restraining order under this section. (§ 1 ch 120 SLA 1966)

Sec. 21.78.040. Grounds for rehabilitation. The director may apply to the court for an order appointing him as receiver of and directing him to rehabilitate a domestic insurer upon one or more of the following grounds. That the insurer

(1) is impaired or insolvent;

(2) has refused to submit any of its books, records, accounts or affairs to reasonable examination by the director;

(3) has concealed or wrongfully removed records or assets or otherwise violated AS 21.69.390;

(4) has failed to comply with an order of the director to make good an impairment of capital or surplus or both;

(5) has transferred or attempted to transfer substantially its entire property or business, or has entered into a transaction the effect of which is to merge substantially its entire property or business in that of any other insurer without having first obtained the written approval of the director;

(6) is found, after examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to its members, subscribers, or stockholders, or to the public;

(7) has an officer, director, or manager who has refused to be examined under oath, concerning its affairs, for which purpose the director is authorized to conduct and to enforce by all appropriate and available means an examination under oath in another state or territory of the United States, in which the officer, director or manager may then presently be, to the full extent permitted by the laws of the other state or territory, this special authorization considered;

(8) has been or is the subject of an application for the appoint-

ment of a receiver, trustee, custodian or sequestrator of the insurer or its property otherwise than under the provisions of this title, but only if the appointment has been made or is imminent and its effect is or would be to oust the courts of this state of jurisdiction;

(9) has consented to such an order through a majority of its directors, stockholders, members or subscribers; or

(10) has failed to pay a final judgment rendered against it in this state upon any insurance contract issued or assumed by it, within 30 days after the judgment became final or within 30 days after the time for taking an appeal has expired, or within 30 days after dismissal of an appeal before final termination, whichever date is the later. (§ 1 ch 120 SLA 1966)

Sec. 21.78.050. Grounds for liquidation. The director may apply to the court for an order appointing him as receiver (if his appointment as receiver is not then in effect) and directing him to liquidate the business of a domestic insurer or of the United States branch of an alien insurer having trusteed assets in this state, regardless of whether or not there has been a prior order directing him to rehabilitate the insurer, upon any of the grounds specified in § 40 of this chapter, or if the insurer

(1) has ceased transacting business for a period of one year, or

(2) is an insolvent insurer and has commenced voluntary liquidation or dissolution, or attempts to commence or prosecute an action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, trustee, custodian or sequestrator under any law except this title. (§ 1 ch 120 SLA 1966)

Sec. 21.78.060. Grounds for conservation — Foreign insurers. The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets in this state, of a foreign insurer upon any of the following grounds:

(1) upon any of the grounds specified in §§ 40 or 50 of this chapter; or

(2) upon the ground that its property has been sequestrated in its domiciliary sovereignty or in any other sovereignty. (§ 1 ch 120 SLA 1966)

Sec. 21.78.070. Grounds for conservation—Alien insurers. The director may apply to the court for an order appointing him as receiver or ancillary receiver, and directing him to conserve the assets within this state, of an alien insurer upon any of the following grounds:

(1) upon any of the grounds specified in §§ 40 or 50 of this chapter;

(2) upon the ground that the insurer has failed to comply within the time designated by the director, with an order made by him to make good an impairment of its trusteed funds; or

(3) upon the ground that the property of the insurer has been sequestrated in its domiciliary sovereignty or elsewhere. (§ 1 ch 120 SLA 1966)

Sec. 21.78.080. Grounds for ancillary liquidation. The director may apply to the court for an order appointing him as ancillary receiver of and directing him to liquidate the business of a foreign insurer having assets, business or claims in this state upon the appointment in the domiciliary state of the insurer of a receiver, liquidator, conservator, rehabilitator or other officer by whatever name called for the purpose of liquidating the business of the insurer. (§ 1 ch 120 SLA 1966)

Sec. 21.78.090. Order of rehabilitation. (a) An order to rehabilitate a domestic insurer shall require the director to take immediate possession of the property of the insurer and to conduct its business, and to take steps toward removal of the causes and conditions which have made rehabilitation necessary as the court may direct.

(b) If at any time the director considers that further efforts to rehabilitate the insurer would be useless, he may apply to the court for an order of liquidation.

(c) The director, or an interested person upon due notice to the director, at any time may apply to the court for an order terminating the rehabilitation proceedings and permitting the insurer to resume possession of its property and the conduct of its business, but the order may not be made or entered except when, after a hearing, the court has determined that the purposes of the proceeding have been fully accomplished. (§ 1 ch 120 SLA 1966)

Sec. 21.78.100. Order of liquidation, domestic insurers. (a) An order to liquidate the business of a domestic insurer shall require the director to take immediate possession of the property of the insurer, to liquidate its business, to deal with the insurer's property and business in his own name as director of insurance or in the name of the insurer, as the court may direct, and to give notice to all creditors who may have claims against the insurer to present the claims.

(b) The director may apply for and secure an order dissolving the corporate existence of a domestic insurer upon his application for an order of liquidation of the insurer or at any time after the order has been granted. (§ 1 ch 120 SLA 1966)

Sec. 21.78.110. Order of liquidation, alien insurers. An order to liquidate the business of a United States branch of an alien insurer

having trusteed assets in this state shall be in the same terms as those prescribed for domestic insurers, except that the assets of the business of the United States branch shall be the only assets included in the order. (§ 1 ch 120 SLA 1966)

Sec. 21.78.120. Order of conservation or ancillary liquidation of foreign or alien insurers. (a) An order to conserve the assets of a foreign or alien insurer shall require the director to take immediate possession of the property of the insurer in this state and to conserve it, subject to the further direction of the court.

(b) An order to liquidate the assets in this state of a foreign insurer shall require the director to take immediate possession of the property of the insurer in this state and to liquidate it subject to the orders of the court and with due regard to the rights and powers of the domiciliary receiver, as provided in this chapter. (§ 1 ch 120 SLA 1966)

Sec. 21.78.130. Conduct of delinquency proceedings against domestic and alien insurers. (a) When under this chapter a receiver is to be appointed in delinquency proceeding for a domestic or alien insurer, the court shall appoint the director as the receiver. The court shall order the director immediately to take possession of the assets of the insurer and to administer the assets under orders of the court.

(b) As a domiciliary receiver, the director shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer, wherever located, as of the date of entry of the order directing him to rehabilitate or liquidate a domestic insurer or to liquidate the United States branch of an alien insurer domiciled in this state, and he shall have the right to recover the same and reduce the same to possession; except that ancillary receivers in reciprocal states shall have, as to assets located in their respective states, the rights and powers which are herein prescribed for ancillary receivers appointed in this state as to assets located in this state.

(c) The filing or recording of the order directing possession to be taken, or a certified copy of the order, in any office where instruments affecting title to property are required to be filed or recorded shall impart the same notice as would be imparted by a deed, bill of sale, or other evidence of title duly filed or recorded.

(d) The director as domiciliary receiver shall be responsible for the proper administration of all assets coming into his possession or control. The court may at any time require a bond from him or his deputies if considered desirable for the protection of the assets.

(e) Upon taking possession of the assets of an insurer, the

domiciliary receiver shall, subject to the direction of the court, immediately proceed to conduct the business of the insurer or to take steps authorized by this chapter for the purpose of rehabilitating, liquidating or conserving the affairs or assets of the insurer.

(f) In connection with delinquency proceedings, the director may appoint one or more special deputies to act for him and he may employ counsel, clerks and assistants which he considers necessary. The compensation of the special deputies, counsel, clerks or assistants and all expenses of taking possession of the insurer and of conducting the proceedings shall be fixed by the receiver, subject to the approval of the court, and shall be paid out of the funds or assets of the insurer. Within the limits of duties imposed upon them, special deputies shall possess all the powers given to, and in the exercise of those powers shall be subject to all of the duties imposed upon, the receiver with respect to the proceedings. (§ 1 ch 120 SLA 1966)

Sec. 21.78.140. Conduct of delinquency proceedings against foreign insurers. (a) When under this chapter an ancillary receiver is to be appointed in delinquency proceedings for an insurer not domiciled in this state, the court shall appoint the director as ancillary receiver. The director shall file a petition requesting the appointment on the grounds set out in § 80 of this chapter,

(1) if he finds that there are sufficient assets of the insurer located in this state to justify the appointment of an ancillary receiver; or

(2) if 10 or more persons resident in this state having claims against the insurer file a petition with the director requesting the appointment of the ancillary receiver.

(b) The domiciliary receiver for the purpose of liquidating an insurer domiciled in a reciprocal state shall be vested by operation of law with the title to all of the property, contracts and rights of action, and all of the books and records of the insurer located in this state, and he shall have the immediate right to recover balances due from local agents and to obtain possession of any books and records of the insurer found in this state. He shall also be entitled to recover the other assets of the insurer located in this state, except that upon the appointment of an ancillary receiver in this state, the ancillary receiver shall during the ancillary receivership proceedings have the sole right to recover the other assets. The ancillary receiver shall, as soon as practicable, liquidate from their respective securities those special deposit claims and secured claims which are proved and allowed in the ancillary proceedings in this state, and shall pay the necessary expenses of the proceedings. He shall promptly transfer all remaining assets

to the domiciliary receiver. Subject to these provisions, the ancillary receiver and his deputies shall have the same powers and be subject to the same duties with respect to the administration of the assets as a receiver of an insurer domiciled in this state.

(c) The domiciliary receiver of an insurer domiciled in a reciprocal state may sue in this state to recover assets of the insurer to which he may be entitled under the laws of this state. (§ 1 ch 120 SLA 1966)

Sec. 21.78.150. Claims of nonresidents against domestic insurers. (a) In a delinquency proceeding begun in this state against a domestic insurer, claimants residing in reciprocal states may file claims either with the ancillary receivers, if any, in their respective states, or with the domiciliary receiver. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in reciprocal states may either:

(1) be proved in this state; or

(2) if ancillary proceedings have been commenced in the reciprocal states, may be proved in those proceedings; if a claimant elects to prove his claim in ancillary proceedings, if notice of the claim and opportunity to appeal and be heard is afforded the domiciliary receiver of this state, as provided in § 160 of this chapter with respect to ancillary proceedings in this state, the final allowance of the claim by the courts in the ancillary state shall be accepted in this state as conclusive as to its amount and its priority, if any, against special deposits or other security located in the ancillary state. (§ 1 ch 120 SLA 1966)

Sec. 21.78.160. Claims against foreign insurers. (a) In a delinquency proceeding in a reciprocal state against an insurer domiciled in that state, claimants against the insurer who reside in this state may file claims either with the ancillary receiver, if any, appointed in this state, or with the domiciliary receiver. The claims must be filed on or before the last date fixed for the filing of claims in the domiciliary delinquency proceedings.

(b) Controverted claims belonging to claimants residing in this state may either

(1) be proved in the domiciliary state as provided by the law of that state; or

(2) if ancillary proceedings have been commenced in this state, be proved in those proceedings; in the event that a claimant elects to prove his claim in this state, he shall file his claim with the ancillary receiver and shall give notice in writing to the receiver in the domiciliary state, either by registered mail or by personal service at least 40 days before the date set for hearing; the notice

shall contain a concise statement of the amount of the claim, the facts on which the claim is based, and the priorities asserted, if any; if the domiciliary receiver within 30 days after the giving of notice gives notice in writing to the ancillary receiver and to the claimant, either by registered mail or by personal service, of his intention to contest the claim, he shall be entitled to appear or to be represented in any proceeding in this state involving adjudication of the claim; the final allowance of the claim by the courts of this state shall be accepted as conclusive as to its amount and its priority, if any, against special deposits or other security located in this state. (§ 1 ch 120 SLA 1966)

Sec. 21.78.170. Form of claim. (a) All claims against an insurer against which delinquency proceedings have been begun shall set out in reasonable detail the amount of the claim, or the basis upon which the amount can be ascertained, the facts upon which the claim is based, and the priorities asserted, if any. The claims shall be verified by the affidavit of the claimant, or someone authorized to act on his behalf and having knowledge of the facts, and shall be supported by documents which may be material to the claims.

(b) All claims filed in this state shall be filed with the receiver, whether domiciliary or ancillary, in this state, on or before the last date of filing as specified in this chapter.

(c) Within 10 days of the receipt of a claim, or within a further period which the court may for good cause shown fix, the receiver shall report the claim to the court, specifying in the report his recommendation with respect to the action to be taken. Upon receipt of the report, the court shall fix a time for hearing the claim and shall direct that the claimant or the receiver, as the court specifies, give notice which the court determines to the persons who appear to the court to be interested therein. All notices shall specify the time and place of the hearing and shall concisely state the amount and nature of the claim, the priorities asserted, if any, and the recommendation of the receiver.

(d) At the hearing, all persons interested shall be entitled to appear and the court shall enter an order allowing, allowing in part, or disallowing the claim. The order shall be an appealable order. (§ 1 ch 120 SLA 1966)

Sec. 21.78.180. Priority of certain claims. (a) In a delinquency proceeding against an insurer domiciled in this state, claims owing to residents of ancillary states shall be preferred claims if like claims are preferred under the laws of this state. Claims owing to residents or nonresidents shall be given equal priority of payment from general assets regardless of where the assets are located.

(b) In a delinquency proceeding against an insurer domiciled

Sec. 21.78.210. Deposit of money collected. The money collected by the director in a proceeding under this chapter shall be from time to time deposited in one or more state or national banks, savings banks, and in the case of the insolvency or voluntary liquidation of a depositary which is an institution organized and supervised under the laws of this state, the deposits shall be entitled to priority of payment on an equality with any other priority given by the banking laws of this state. The director may in his discretion deposit the money or any part of it in a national bank or as a trust fund. (§ 1 ch 120 SLA 1966)

Sec. 21.78.220. Exemption from fees. The director shall not be required to pay a fee to a public officer in this state for filing, recording, issuing a transcript or certificate or authenticating a paper or instrument pertaining to the exercise by the director of any of the powers or duties conferred upon him under this chapter, whether or not the paper or instrument is executed by the director or his deputies, employees or attorneys of record and whether or not it is connected with the commencement of an action or proceeding by or against the director, or with the subsequent conduct of the action or proceeding. (§ 1 ch 120 SLA 1966)

Sec. 21.78.230. Borrowing on pledge of assets. For the purpose of facilitating the rehabilitation, liquidation, conservation or dissolution of an insurer under this chapter, the director may, subject to the approval of the court, borrow money and execute, acknowledge and deliver notes or other evidences of indebtedness and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property, whether real, personal or mixed, of the insurer, and the director subject to the approval of the court shall have power to take any and all other action necessary and proper to consummate the loan and to provide for its repayment. The director shall be under no obligation personally or in his official capacity to repay a loan made under this section. (§ 1 ch 120 SLA 1966)

Sec. 21.78.240. Date rights fixed on liquidation. The rights and liabilities of the insurer and of its creditors, policyholders, stockholders, members, subscribers and all other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date on which the order directing the liquidation of the insurer is filed in the office of the clerk of the court which made the order, subject to the provisions of this chapter with respect to the rights of claimants holding contingent claims. (§ 1 ch 120 SLA 1966)

Sec. 21.78.250. Voidable transfers. (a) A transfer of, or lien upon, the property of an insurer which is made or created within

four months before the granting of an order to show cause under this chapter with the intent of giving to creditor a preference or of enabling him to obtain a greater percentage of his debt than another creditor of the same class and which is accepted by the creditor having reasonable cause to believe that the preference will occur, shall be voidable.

(b) Each director, officer, employee, stockholder, member, subscriber and any other person acting on behalf of the insurer who is concerned in any act or deed and each person receiving thereby any property of the insurer or the benefit of it shall be personally liable therefor and shall be bound to account to the director.

(c) The director as receiver in a proceeding under this chapter may avoid a transfer of or lien upon the property of an insurer which a creditor, stockholder, subscriber or member of the insurer might have avoided and may recover the property transferred unless the person was a bona fide holder for value before the date of the entering of an order to show cause under this chapter. The property or its value may be recovered from anyone who has received it except a bona fide holder for value as herein specified. (§ 1 ch 120 SLA 1966)

Sec. 21.78.260. Priority of claims for compensation. (a) Compensation actually owing to employees other than officers of an insurer, for services rendered within three months before the commencement of a proceeding against the insurer under this chapter, but not exceeding $500 for each employee, shall be paid before the payment of any other debt or claim, and in the discretion of the director may be paid as soon as practicable after the proceeding has been commenced; except that at all times the director shall reserve the funds which will in his opinion be sufficient for the expenses of administration.

(b) The priority shall be in lieu of any other similar priority which may be authorized by law as to wages or compensation of the employees. (§ 1 ch 120 SLA 1966)

Sec. 21.78.270. Offsets. (a) In all cases of mutual debts or mutual credits between the insurer and another person in connection with an action or proceeding under this chapter, the credits and debts shall be set off and the balance only shall be allowed or paid, except as provided in (b) of this section.

(b) No offset may be allowed in favor of a person if

(1) the obligation of the insurer to the person would not at the date of the entry of a liquidation order or otherwise, as provided in § 240 of this chapter, entitle him to share as a claimant in the assets of the insurer;

(2) the obligation of the insurer to the person was purchased by or transferred to the person with a view of its being used as an offset; or

(3) the obligation of the person is to pay an assessment levied against the members of a mutual insurer, or against the subscribers of a reciprocal insurer, or is to pay a balance upon the subscription to the capital stock of a stock insurer. (§ 1 ch 120 SLA 1966)

Sec. 21.78.280. Allowance of certain claims. (a) No contingent and unliquidated claim may share in a distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made under this chapter, except that the claim shall be considered, if properly presented, and may be allowed to share if

(1) the claim becomes absolute against the insurer on or before the last day for filing claims against the assets of the insurer; or

(2) there is a surplus and the liquidation is thereafter conducted upon the basis that the insurer is solvent.

(b) If an insurer has been adjudicated to be insolvent a person who has a cause of action against an insured of the insurer under a liability insurance policy issued by the insurer has the right to file a claim in the liquidation proceeding, regardless of the fact that the claim may be contingent, and the claim may be allowed

(1) if it may be reasonably inferred from the proof presented upon the claim that the person would be able to obtain a judgment upon the cause of action against the insured;

(2) if the person furnishes suitable proof, unless the court for good cause shown otherwise directs, that no further valid claim against the insurer arising out of his cause of action other than those already presented can be made; and

(3) if the total liability of the insurer to all claimants arising out of the same act of its insured is no greater than its maximum liability would be were it not in liquidation.

(c) No judgment against the insured taken after the date of entry of the liquidation order shall be considered in the liquidation proceedings as evidence of liability, or of the amount of damages, and no judgment against an insured taken by default, or by collusion before the entry of the liquidation order may be considered as conclusive evidence in the liquidation proceedings, either of the liability of the insured to the person upon the cause of action or of the amount of damages to which the person is entitled.

(d) No claim of a secured claimant may be allowed at a sum greater than the difference between the value of the claim without security and the value of the security itself as of the date of the entry of the order of liquidation or other date set by the court for determining rights and liabilities as provided in § 240 of this chapter unless the claimant surrenders his security to the director, in which event the claim shall be allowed in the full amount for which it is valued. (§ 1 ch 120 SLA 1966)

Sec. 21.78.290. Time to file claims. (a) If upon the entry of an order of liquidation under this chapter or at any time thereafter during liquidation proceedings the insurer is clearly not solvent, the court shall, upon hearing after notice it considers proper, make and enter an order adjudging the insurer to be insolvent.

(b) After the entry of the order of insolvency, regardless of prior notice that may have been given to creditors, the director shall notify all persons who may have claims against the insurer to file the claims with him, at a place and within the time specified in the notice, or that the claims shall be forever barred. The time specified in the notice shall be as fixed by the court for filing claims and may not be less than six months after the entry of the order of insolvency. The notice shall be given in the manner and for the reasonable period of time that may be ordered by the court. (§ 1 ch 120 SLA 1966)

Sec. 21.78.300. Report and petition for assessment. Within three years after the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer or a domestic reciprocal insurer, the director may make and file his report and petition to the court setting out

(1) the reasonable value of the assets of the insurer;

(2) the liabilities of the insurer to the extent thus far ascertained by the director;

(3) the aggregate amount of the assessment, if any, which the director considers reasonably necessary to pay all claims, the costs and expenses of the collection of the assessments and the costs and expenses of the delinquency proceedings in full;

(4) any other information relative to the affairs or property of the insurer that the director considers material. (§ 1 ch 120 SLA 1966)

Sec. 21.78.310. Order and levy of assessment. (a) Upon the filing and reading of the report and petition provided for in § 300 of this chapter, the court, ex parte, may order the director to assess all members or subscribers of the insurer who may be subject to the assessment, in the aggregate amount the court finds reasonably necessary to pay all valid claims as may be timely filed and proved in the delinquency proceedings, together with the costs and expenses of levying and collecting assessments and the costs and expenses of the delinquency proceedings in full. The order shall require the director to assess each member or subscriber for his porportion of the aggregate assessment, according to the reasonable classification of the members or subscribers and formula which may be made by the director and approved by the court.

(b) The court may order additional assessments upon the fil-

of the order and petition referred to in (c) of this section is made upon him

(1) fails to appear at the time and place specified in the order, judgment shall be entered against him as prayed for in the petition; or

(2) appears in the manner and form required by law in response to the order, the court shall hear and determine the matter and enter a judgment in accordance with its decision.

(e) The director may collect the assessment through any other lawful means. (§ 1 ch 120 SLA 1966)

Sec. 21.78.330. Definitions. In this chapter

(1) "impairment" or "insolvency" means that the capital of a stock insurer or the surplus of a mutual or reciprocal insurer, shall be considered to be impaired and the insurer shall be considered to be insolvent, when the insurer is not possessed of assets at least equal to all liabilities and required reserves together with its total issued and outstanding capital stock if a stock insurer, or the minimum surplus if a mutual or reciprocal insurer required by this title to be maintained for the kind or kinds of insurance it is then authorized to transact;

(2) "insurer" means a person, firm, corporation, association or aggregation of persons doing an insurance business and subject to the insurance supervisory authority of or to liquidation, rehabilitation, reorganization or conservation by the director or the equivalent insurance supervisory official of another state;

(3) "delinquency proceeding" means a proceeding commenced against an insurer under this chapter for the purpose of liquidating, rehabilitating, reorganizing or conserving the insurer;

(4) "state" means a state of the United States and the District of Columbia and Puerto Rico;

(5) "foreign country" means territory not in a state;

(6) "domiciliary state" means the state in which an insurer is incorporated or organized, or in the case of an insurer incorporated or organized in a foreign country, the state in which the insurer, having become authorized to do business in the state, has at the commencement of delinquency proceedings, the largest amount of its assets held in trust and assets held on deposit for the benefit of its policyholders or policyholders and creditors in the United States, and the insurer is considered to be domiciled in that state;

(7) "ancillary state" means a state other than a domiciliary state;

(8) "reciprocal state" means a state other than this state in which in substance and effect the provisions of the Uniform Insurers Liquidation Act, as defined in § 200 of this chapter, are in

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 277

Title Relating to avaiation insurance

Requested by Senate Labor & Commerce, Finance Committees Date 3/12/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected Treasury Management

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

→ MILLIONS ←

GENERAL FUND		30.0				
~~FEDERAL FUNDS~~						
OTHER (Specify Fund Source)						
OPPORTUNITY COST/INTEREST LOST		1.5	1.5	1.5	1.5	1.5

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill creates the Aviation Indemnity Corporation of Alaska. It's purpose is to furnish aircraft owners and operators with adequate liability/hull damage insurance. The bill also creates the Aviation Liability Revolving Loan Fund which can make loans to the Corporation to provide necessary surplus. The Dept. of Revenue shall purchase all notes offered by the fund up to $30 million.

The first line indicates that the $30 million of notes bought, while an investment, are illiquid assets and are not available for appropriation for other purposes. The opportunity cost/interest lost is the difference between the 7% interest rate that the fund pays on loans and the earnings rate for the General Fund currently. It is assumed that the $30 million in loans are outstanding throughout the period.

IV. DATE March 26, 1981 PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

PHONE 465-2351

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB-277

Title An act relating to aviation insurance; and providing for an effective date.

Requested by Eliason Date 3/12/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	7	4	1	1	1
300 CONTRACTUAL	0	3	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	30000	0	0	0	0
TOTAL	0	30,010.	4	1	1	1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	30,010.	4	1	1	1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0

POSITIONS

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

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

Travel Funds heavy initally to monitor start up operations
contractual funds for hearing to implement new chapter 86.

The $30 Million in 700 for fy 82 is the fund established in proposed section 21.86.200(b)

IV. DATE 3/17/81 PREPARED BY: Kenneth C. Moore, Director of Insurance

AGENCY Department of Commerce & Economic Development

PHONE 465-2515

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

33-001 (Rev. 12/80

SB

278

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/13/81

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 278

savings associations

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Matthew Roden

Bob Marbut

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Hoke — no rec

Zeke " "

Tohn Kwong No Rec

Bob Marbut

CHAIRMAN

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES

April 14th, 1981

The Senate Committee on Labor and Commerce held a committee meeting, April 13th, adressing the following bills:

SB 278 "An act relating to Savings Associations"

SB 279 "An act relating to the General powers of the Department of Commerce and Economic Development"

SB 280 "An act relating to Credit Unions"

The meeting was called to order at 3:07pm and SB 278 was the first order of business. After a brief discussion, Sen Rodey moved that SB 278 move with individual reccomendations;

Willis kirkpatrick, Director of the Division of Banking Securities, testified in favor of SB 279; Sen Rodey moved to move SB 279 with individual recommendations;

SB 280 was next on the agenda, and Willis Kirkpatrick testified in favor; Senator Rodey entertained a motion to move the bill. The bills were moved from committee with individual recommendations. The meeting was adjourned at 3:16 pm.

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

April 13, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcahy at 3:16 P.M.

SEN. PATRICK RODEY
CHAIRMAN
(907) 465-3717

SEN. BOB MULCAHY
SEN. JALMAR KERTTULA
MEMBERS

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

SECTIONAL ANALYSIS: SB 278 "An Act relating to savings associations."

This bill proposes changes in chapter 30 of title 6 of the Alaska Statutes, the Alaska Savings Association Act. The changes are intended to provide parity for state-chartered savings associations.

* Section 1: Adds a declaration of policy which provides that the division of banking may, under certain conditions, allow our state-chartered savings associations the same powers possessed by state-chartered savings associations in other states.

* Section 2: Adds two powers to the list of general powers of savings associations: (1) conversion from a mutual to a stock association; and (2) conversion from a stock association to a commercial bank. The language is patterned after the language contained in AS 06.15.350 (9) and AS 06.45.240. For analogous provisions, see AS 06.05.462, AS 06.15.300-310 and AS 06.30.760-775. Although quite simple in form, the language leaves wide latitude for an association and the division of banking to work out the details of an appropriate conversion.

* Section 3: Accomplishes two changes: (1) removes dollar limits on residential loans thus providing parity with the federals; and (2) amends the loans-to-one-borrower-limitation; the language comes from the Model Savings Association Act.

* Section 4: Accomplishes three changes: (1) increases the loan-to-value limit from 80 percent to 90 percent on one-to-four family residences (parity with the federals); (2) extends the loan term to 40 years (parity with the federals); and (3) simplifies the insurance provisions to recognize the expanded role played in Alaska by AHFC.

* Section 5: Deletes reference to a loan term limit of 30 years, and specifies that loans for one-to-four family residences must be for units located within Alaska.

* Section 6: Adds a new section which specifies that an association may make loans for multi-family and commercial real estate with a loan-to-value limit up to 90 percent and a maturity not to exceed 40 years (parity with federals).

* Section 7: Expands the loaning capability of state-chartered associations by allowing them to make "other loans" in excess of 30 percent of assets provided there is a commitment for take-out by a secondary investor. This change will continue to assure the safety of the depositors while allowing the associations the opportunity to take advantage of unique Alaskan institutions like AIDA. This section also deletes reference to dollar limits, and increases allowable percentage investment in mobile home mortgages.

* Section 8: Adds a section defining lending standards. The language comes from the Model Savings Association Act.

* Section 9: Expands the associations' lending capabilities in the area of property improvement and consumer loans. Deletes reference to dollar limits. The changes are intended to provide parity with the federals.

* Section 10: Simplifies language regarding servicing (parity with the federals).

* Section 11: Technical amendment

* Section 12: Rewrites the section on investment in service corporations to provide parity with the federals.

* Section 13: Makes changes in the definition section of the chapter; increases the loan term limit to 40 years, and lengthens the time allowed for payback of the principal on an interim construction loan.

* Section 14: Adds two new definitions in keeping with charges proposed in this bill.

* Section 15: Repeals unduly restrictive and redundant sections of the chapter, at the direction of the division of banking.

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: March 25th, 1981

Senator Mulcahy opened the meeting with all members present and introduced SB 278 as the first item of business.

Sen. Rodey provided a synopsis of the bill explaining the need for expanding the powers neccessary to establish Savings and Loan Associations with equal parity of those Federally chartered institutions.

Willis Kirkpatrick, Director of the Division of Banking and Securities, addressed the issue of Savings and Loan Associations, expressed the support of his Department for the bills, and provided a section by section analysis of SB 278. He commended the work done by the Senate Committee on Banking and the resultant bills which have emerged from their efforts.

Mr. Eldy Turner, President of Peninsula Savings and Loan Association, Soldotna, expressed support and appreciation of the banking industry for these bills.

Sen. Fahrenkamp posed a question about Federal controls over the banking industry and whether the text of these bills would put us in conformity with the Federal regulations.

Sen. Rodey responded that these bills represent everything necessary to allow the State of Alaska to maintain control over our banking industry.

Sen. Mulcahy asked for any further public testimony, and related that we would continue to research these bills. Without any further testimony the meeting was adjourned.

and shall furnish full control records to the home office. (§ 14(b) ch 49 SLA 1961)

Sec. 06.30.230. Records to be kept by agents. Each agent of an association shall keep an original record of each transaction of business of the association and shall report promptly to the home office. Complete detailed permanent records of the transactions are not required to be maintained at the agency. (§ 14(c) ch 49 SLA 1961)

Sec. 06.30.235. Forms and accounting practices to be approved by commissioner. Every association shall use the forms and observe the accounting principles and practices the commissioner requires. (§ 14(d) ch 49 SLA 1961)

Sec. 06.30.240. Books to be closed at least semiannually. Every association shall close its books at the close of business on June 30 and December 31 of each year, or more often if authorized for all associations by the commissioner. (§ 14(e) ch 49 SLA 1961)

Sec. 06.30.245. Misdescription of assets. No association by any system of accounting or device of bookkeeping shall, either directly or indirectly, enter any of its assets upon its books in the name of a person or under a title or designation that is not truly descriptive of the assets. (§ 14(f) ch 49 SLA 1961)

Sec. 06.30.250. Charging off or setting up reserves against bad assets. The commissioner, after his determination of value, may order that assets in the aggregate, to the extent that they have depreciated in value, be charged off, or that a special reserve or reserves equal to the depreciation in value be set up by transfers from undivided profits or reserves. (§ 14(g) ch 49 SLA 1961)

Sec. 06.30.255. Bonds and other obligations to be carried at actual cost. The bonds or other interest-bearing obligations purchased by an association shall not be carried on its books at more than the actual cost. (§ 14(h) ch 49 SLA 1961)

Sec. 06.30.260. Real estate to be carried at amount invested in same. An association shall not carry real estate on its books at a sum in excess of the total amount invested by the association in the real estate, including advances, costs, and improvements but excluding accrued but uncollected interest. (§ 14(i) ch 49 SLA 1961)

Sec. 06.30.265. Appraisal of real estate owned and that securing delinquent loans. Every association shall appraise each parcel of real estate at the time of its acquisition. The report of each appraisal shall be submitted in writing to the board of directors and shall be kept in the records of the association. The commissioner may require the appraisal of real estate securing loans which are delinquent more than 12 months. (§ 14(j) ch 49 SLA 1961)

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Sec. 06.30.270. Maintenance of membership records. (a) Every mutual association shall maintain membership records showing the name and address of the member, the status of the member as a savings account holder, or an obligor, or a savings account holder and obligor, and the date of membership. In the case of account-holding members, the association shall obtain a card containing the signature of the holder of the account or his authorized representative and shall preserve the signature card in the records of the association.

(b) Every stock association shall maintain a stock book and a stock transfer book. (§ 14(k) ch 49 SLA 1961; am § 16 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), inserted "mutual" near the beginning of that subsection, and added subsection (b).

Sec. 06.30.275. Reproduction and destruction of records. An association may have its records copied or reproduced by any photostatic, photographic or micro-filming process which correctly and permanently copies, reproduces or forms a medium for copying or reproducing the original record on a film or other durable material, and the association may thereafter dispose of the original record. The copy or reproduction is an original record for all purposes and shall be treated as an original record in all courts and administrative agencies for the purpose of its admissibility in evidence. A facsimile, exemplification or certified copy of a copy or reproduction reproduced from a film record shall be considered a facsimile, exemplification or certified copy of the original record. (§ 14(1) ch 49 SLA 1961)

Sec. 06.30.280. General powers of associations. Every association has the powers enumerated, authorized, and permitted by this chapter and such other rights, privileges, and powers incidental to or reasonably necessary for the accomplishment of the objects and purposes of the association. Every association may

(1) sue and be sued, complain and defend in court;

(2) have a corporate seal, which may be affixed by imprint, facsimile or otherwise;

(3) adopt and amend bylaws as provided in this chapter;

(4) appoint officers, agents and employees as its business requires and fix their compensation;

(5) receive savings and repay or invest the same;

(6) declare and pay dividends;

(7) loan money and sell any of its notes or other evidences of its indebtedness, together with the collateral securing the same;

(8) collect or protect promissory notes or bills of exchange, owned or held as collateral by the association;

(9) collect or compromise debts due to it and in so doing to apply to the indebtedness the savings accounts of the member debtors and to

receive as collateral or otherwise, other securities, property or property rights of any kind or nature;

(10) procure insurance of its mortgages from a mortgage insurer authorized to do business in this state;

(11) provide for life, health and casualty insurance for officers and employees and adopt and operate reasonable bonus plans and retirement benefits for officers and employees;

(12) borrow money and pledge or mortgage its properties and securities in connection with them;

(13) conduct business in this state or elsewhere as may be permitted by this chapter;

(14) deposit money and securities in any bank or other like depository;

(15) sell money orders and travelers checks;

(16) act as an escrow agent;

(17) let safe deposit boxes and other receptacles for the safekeeping of personal property;

(18) dissolve and wind up its business. (§ 23(a) ch 49 SLA 1961; am § 17 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote the second sentence.

Sec. 06.30.285. Association may act as fiscal agent. An association which is a member of a Federal Home Loan Bank may act as fiscal agent of the United States, and, when so designated by the Secretary of the Treasury, shall perform, under regulations which he prescribes, the duties as fiscal agent of the United States, and may act as agent for an instrumentality of the United States and as agent of this state or an instrumentality of the state. (§ 29 ch 49 SLA 1961)

Sec. 06.30.290. Operating contracts must be approved by commissioner. No association may make an operating or management contract with any person, except with the approval of the commissioner. Existing operation or management contracts may not be extended, renewed, or transferred without approval of the commissioner. (§ 46(c) ch 49 SLA 1961)

Sec. 06.30.295. Fixed rate, fixed term accounts. No association may issue, sell, negotiate, or advertise for sale either to members or the public any type of investment security other than savings accounts. An association may accept accounts bearing a definite rate of return for fixed periods of time when its board of directors has adopted a resolution providing for the issuance of fixed rate, fixed term accounts and those accounts are insured by the Federal Savings and Loan Insurance Corporation. (§ 22 ch 49 SLA 1961; am § 18 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "may issue" for "shall issue" in the first sentence, rewrote the second sentence, which formerly read

in accordance with this section is thereby liable for estate, inheritance or succession taxes which may be due this state. (§ 46(h) ch 49 SLA 1961)

Sec. 06.30.420. Powers of attorney on savings accounts. An association or federal savings and loan association may continue to recognize the authority of an attorney in fact authorized in writing to manage or to make withdrawals either in whole or in part from the savings account of a member until it receives written notice or is on actual notice of the revocation of his authority. For the purposes of this section, written notice of the death or adjudication of incompetency of the member constitutes written notice of revocation of the authority of his attorney. The institution is not liable for damages, penalty or tax by reason of any payment made under this section. (§ 46(i) ch 49 SLA 1961)

Sec. 06.30.425. Accounts subject to garnishment and execution. Savings accounts of associations are subject to garnishment, attachment, execution or similar process to the same extent as are savings accounts in federal savings and loan associations. Without inquiry into the validity of garnishment or similar process, an association or federal savings and loan association may pay funds in excess of $1,000 into a court or to a qualified official making demand for it under process or on a judgment pursuant to process. (§ 46(l) ch 49 SLA 1961)

Sec. 06.30.430. Statute of limitations on savings accounts. (a) All claims are barred in this state on an inactive savings account. For the purposes of this section, "inactive savings account" means a savings account in which there has been an absence for at least 10 years of (1) additions to the account, other than dividend creditings, (2) withdrawals from the account, and (3) written communication from the holder of the account.

(b) Every association shall upon request submit to the department a report of inactive savings accounts. The executive officer of the association is responsible for furnishing the report. The department shall proceed to recover the property through escheat proceedings in the manner provided in AS 09.50.070 — 09.50.160.

(c) A service charge may be made by the association for reasonable costs incurred in maintaining inactive accounts. (§ 46(m) ch 49 SLA 1961; am § 23 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment added subsections (b) and (c).

Sec. 06.30.435. Bonus Plans.

Repealed by § 45 ch 164 SLA 1978.

Editor's note. — The repealed section derived from § 30, ch. 49, SLA 1961.

Sec. 06.30.500. Investment in first mortgages. Subject to the provisions of this chapter and regulations adopted under it, an association may invest in deeds of trust on mortgages in a first lien position on real property, including leasehold estates subject only to reservations, easements and restrictions of record, subject to the following limitations:

(1) No investment in mortgages executed by any one mortgagor may exceed in the aggregate two per cent of the assets of the association at the time the investment is made, or $90,000 on a single-family dwelling or $90,000 per unit on a multiple-family dwelling or other improved realty, whichever is greater, or other maxima established by the commissioner by regulation.

(2) No investment in any one mortgage may ex wo per cent of the assets of the association at the time the invest is made, or as specified in (1) of this section, whichever is greater, or more than 80 per cent of the appraised value of a one-to-four family residence securing a conventional loan; however, an association may make 95 per cent of appraised value loans if the term of the loan does not exceed 30 years, and the loan is secured by an amortized mortgage, deed of trust, or other instrument under the terms of which the installment payments are sufficient to amortize the entire principal of the loan within the period ending on the date of its maturity and, in addition, the loan is either

(A) insured by mortgage insurance in an amount equal to 20 per cent of the loan issued by a mortgage insurer authorized to do business in Alaska; or

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 10 per cent of the loan or other collateral acceptable to the department.

(3) Except as provided in (1) of this section, no investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside this state and the mortgage has a maturity not exceeding 30 years from the date the loan is made.

(4) No investment may be made in a conventional loan if the aggregate unpaid principal of all conventional loans exceeds 80 per cent of deposits plus all borrowings from the Federal Home Loan Bank.

(The loan may not be made to a director, officer, or employee except when secured by home property owned and occupied by the director, officer, or employee.

(6) No investment may be made in a mortgage upon a leasehold unless

(A) the leasehold has an unexpired term of not less than two years beyond the maturity of the loan;

(B) the principal amount of the mortgage loan is not in excess of 80 per cent of the appraised value of the leasehold; and

(C) provision is made for completed amortization of the loan within an unexpired term by period payments as the department may prescribe. (§ 23(c) ch 49 SLA 1961; am § 27 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 06.30.505. Other loans. (a) An association may use for loans other than those specified in § 500 of this chapter an aggregate amount not exceeding 30 per cent of the assets at the time of use, or a larger amount with the approval of the commissioner as follows:

(1) home loans, whether direct-reduction or not, which exceed $90,000 each, regardless of where the home property securing the loan is situated;

(2) [deleted]

(3) home loans of any amount, which are not direct-reduction home loans, regardless of where the home property securing the loan is situated;

(4) other real estate loans, whether amortized or unamortized, regardless of amount or location of real estate securing the loan.

(b) The power referred to in (a) of this section is referred to as the "30 per cent of assets lending power." A subsequent reduction of savings liability does not affect outstanding loans made under the 30 per cent of assets lending power.

(c) An association may, subject to regulations adopted by the commissioner, invest not to exceed 10 per cent of its assets in loans secured by mobile homes.

(d) The loans referred to in (a) of this section may not exceed 80 per cent of appraised value of the property securing the loans except as provided in §§ 500 and 510 of this chapter. (§ 23(d) ch. 49 SLA 1961; am §§ 28, 29 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment in subsection (a), inserted "other than those specified in § 500 of this chapter" in the introductory language, substituted "$90,000" for "$45,000" in paragraph (1), and deleted former paragraph (2), which read "home loans of any amount, which are direct-reduction home loans secured by home property situated beyond the regular lending area." The amendment also added subsections (c) and (d).

Sec. 06.30.510. Insured and guaranteed loans. An association may make secured or unsecured loans which are insured or guaranteed in any manner and in any amount by the United States or instrumentality of the United States or by this state or instrumentality of this state. (§ 23(e) ch 49 SLA 1961)

Sec. 06.30.515. Dealing with successors in interest. If a loan is made under §§ 500 — 510 of this chapter and the ownership of the real estate security or any part of it vests in a person other than the party originally executing the security instrument, an association may deal with the

successor in interest without notice to the original party, except where there is a written agreement to the contrary, and may forbear to sue or may extend time for payment of the secured debt or otherwise modify its terms without discharging or in any way affecting the original liability of the party upon the debt. (§ 23(f) ch 49 SLA 1961)

Sec. 06.30.520. Property improvement and small loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. A loan may be made with or without security, except that a loan without security may not exceed $4,500. An association may not make property improvement loans exceeding 25 per cent of its assets. An association may make small loans to members with or without security not exceeding $2,500. However, an association may not make small loans exceeding 15 per cent of its assets. The total amount of loans made under this section may not exceed 25 per cent of the assets of the association. (§ 23(g) ch 49 SLA 1961)

Sec. 06.30.525. Power to purchase loans and to lend upon loans. The power to make loans includes (1) the power to purchase loans of any type that the association may make and (2) the power to make loans upon the security of loans of any type that the association may make. (§ 23(h) ch 49 SLA 1961)

Sec. 06.30.530. Participation loans. An association may participate with other lenders in loans of any type that an association may otherwise make, if the other lenders are instrumentalities of or corporations owned wholly or in part by the United States or this state, or are associations organized under the laws of this state, or are associations or corporations insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or are life insurance companies with assets in excess of $100 million, or are employees' or self-employed persons' trusts qualified and exempt from federal income tax under the laws of the United States. (§ 23(i) ch 49 SLA 1961)

Sec. 06.30.535. Sale of loans. An association may sell without recourse any loan, including its participating interest in a loan, at any time, if the total dollar amount of the loan sold, including the sale, within the calendar year beginning January 1 immediately preceding the date of the sale, does not exceed a sum equal to 25 per cent of the dollar amount of all loans and participating interests in loans held by the association at the beginning of the calendar year. However, the commissioner, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this section, loans may be assigned with recourse to the Federal Home Loan Bank of which the association is a member. (§ 23(j) ch 49 SLA 1961)

(3) the second mortgage agreement contains a provision that the association is entitled to be subrogated to all rights of the borrower under the first mortgage;

(4) the total aggregate amount of such loans outstanding does not exceed 10 per cent of the association's assets. (§ 24 ch 49 SLA 1961; am § 30 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment added subsection (b).

Sec. 06.30.560. Mortgage to secure existing or simultaneous debt or future advances. A mortgage that can be made by an association under this chapter may be made by an association to secure an existing debt or obligation, to secure a debt or obligation created simultaneously with the execution of the mortgage, to secure future advances necessary to protect the security, and to secure future advances to be made at the option of the parties. The existing or simultaneous debt or obligation or the future advances shall, from the time the mortgage is filed for record as provided by the law of this state, be secured by the mortgage equally with, and have the same priority over the rights of all persons who after the recording of the mortgage acquire any right or lien in the mortgaged real estate, as the debts and obligations secured thereby at the time of the filing of the mortgage for record; except that (1) the mortgagor or his successor in title may file a notice for record and it shall be recorded limiting the amount of optional future advances secured by the mortgage to not less than the amount actually advanced at the time of the filing, if a copy of the notice is filed with the mortgagee, and (2) if an optional future advance is made by the mortgagee to the mortgagor or his successor in title after written notice of a mortgage, lien, or claim against the real property which is junior to the mortgage, then the amount of the advance is junior to the mortgage, lien, or claim of which written notice was given. (§ 24 ch 49 SLA 1961)

Sec. 06.30.565. Association may pay charges for protection of real estate loan. An association may pay taxes, assessments, insurance premiums and other similar charges for the protection of its real estate loans. These payments shall be added to the unpaid balance of the loan and are equally secured by the first lien on the property. (§ 24 ch 49 SLA 1961)

Sec. 06.30.570. Association may require life insurance. An association may require life insurance to be assigned as additional collateral upon a real estate loan. If life insurance is assigned, the association has a first lien upon the policy and may advance premiums on it, and the premium advances shall be added to the unpaid balance of the loan and are equally secured by the first lien on the property. (§ 24 ch 49 SLA 1961)

(2) real estate accepted by the association in satisfaction of any obligation;

(3) real estate purchased for sale, or improvement and sale, upon a contract, at the cost of land and improvements, when the contract is executed concurrently with or before the purchase, except that the transaction is subject to all the limitations provided in this chapter with respect to real estate loans;

(4) real estate acquired by the association in exchange for real estate owned by the association;

(5) real estate acquired by the association in connection with salvaging the value of property owned by the association;

(6) the purchase and development of real estate for the purpose of producing income or for sale or for improvement and the erection of buildings for sale or rental purposes, except that the amount invested may not exceed an amount equal to the sum of its reserves and undivided profits;

(7) stock of a wholly owned subsidiary corporation having as its exclusive activity the ownership and management of the association's real property.

(c) Title to real estate shall be taken and held in the name of the association and title shall immediately be recorded in accordance with the law. (§ 26(b) ch 49 SLA 1961; am §§ 31, 32 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "capital stock, surplus" and "including buildings and appurtenances" in the first sentence of subsection (a) and added paragraph (7) to subsection (b).

C.J.S. reference. — 9 C.J.S. Banks and Banking § 163.

Sec. 06.30.616. Investment in service corporation. (a) An association may, subject to the approval of the commissioner, invest in, hold, and sell the capital stock and other obligations of

(1) any service corporation organized under the laws of this state if the entire capital stock of the service corporation is available for purchase only by one or more savings and loan or banking institutions having their home offices in this state, to perform accounting or similar functions or servicing loans primarily for those institutions;

(2) any service corporation whose activities consist of purchasing and disposing of loans and making each investment as specifically authorized by federal and state law for savings and loan and banking institutions.

(b) An association may invest upon approval by the commissioner in a service corporation an amount not to exceed five per cent of its total assets at the time of the investment, except the total investment under this section and § 615 of this chapter may not exceed the sum of its capital stock, surplus, undivided profits and reserve accounts. (§ 33 ch 164 SLA 1978)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 278

Title An Act relating to State chartered savings associations

Requested by Senate Labor and Commerce Date 3/19/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 3/19/81

PREPARED BY Willis F. Kirkpatrick, Director of Banking

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original. Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

53-001 (Rev. 12/80

SB
279

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 279:

The existing statute authorizes the Commissioner of the Dept. of Comm&Econ Dev to allow finacial instutions to exercise any of the powers confered upon a Federally chartered bank, trust company, savings associations, Federally chartered credit unions, or other federally chartered institution doing business in this State, which are subject to the regulations of the US Comptroller of the Currency, the Fed. Reserve Board, the Federal Home Loan Bank, FDIC, or the National Credit Union Administrator.

The proposed ammendment addresses the limitations which may be imposed upon these chartered financial institutions. These institutions shall be subject to any of the limitations imposed on there Federal counterparts, if the Commissioner finds that limitations

(1). serve the Public convenience and advantage; and

(2). Equalize and maintain the quality of competition between State chartered and Federally chartered Institutions;

SB 279 further adds that the authority granted to the Commissioner by this section may not be limited by law unless that law expressly refers to this section.

COMMITTEE REPORT

SENATE

3/13/81

FURTHER: Judiciary

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 279 general powers of the Dept. of Commerce and Economic Development

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Patrick Rodeg
Bob Marks

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Hobin no rec
N: Ba
Thomas Keegan No Rec

Bob Marks
CHAIRMAN

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES

April 14th, 1981

The Senate Committee on Labor and Commerce held a committee meeting, April 13th, adressing the following bills:

SB 278 "An act relating to Savings Associations"

SB 279 "An act relating to the General powers of the Department of Commerce and Economic Development"

SB 280 "An act relating to Credit Unions"

The meeting was called to order at 3:07pm and SB 278 was the first order of business. After a brief discussion, Sen Rodey moved that SB 278 move with individual reccomendations;

Willis kirkpatrick, Director of the Division of Banking Securities, testified in favor of SB 279; Sen Rodey moved to move SB 279 with individual recommendations;

SB 280 was next on the agenda, and Willis Kirkpatrick testified in favor; Senator Rodey entertained a motion to move the bill. The bills were moved from committee with individual recommendations. The meeting was adjourned at 3:16 pm.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

April 13, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcany at 3:16 P.M.

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than $100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

(1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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Article
1. Powers
2. Banking
3. Organi
4. Liquida
5. Prohibi
6. General

Article 1. Licensing.

Section
10. License required
20. Applicability
30. Bond
40. Annual license fee
50. Application for license; fee
60. Place of business
70. Investigation: Qualifications for license
80. Revocation and suspension of license

Sec. 06.40.010. License required. Except as provided in § 20 of this chapter, no person may engage in the business of entering into premium finance agreements on insurance sold in this state or risks located in this state, either directly or indirectly, or otherwise act as a premium finance company in this state without being licensed by the department. (§ 1 ch 170 SLA 1978)

Sec. 06.40.020. Applicability. This chapter does not apply to

(1) any insurer authorized to transact business in this state with respect to premiums on policies which the insurer issues;

(2) any bank, trust company, savings association, or other financial institution subject to the other chapters of this title and authorized to transact business in this state that does not possess or acquire any right, title or interest with respect to the insurance policy for which the premiums are financed other than in the proceeds of it in the event of loss;

(3) the inclusion of a charge for insurance in connection with an installment sale in accordance with AS 45.10, and

(4) persons licensed under AS 21.27 financing only their own accounts if they are in compliance with AS 21.36.122. (§ 1 ch 170 SLA 1978)

Sec. 06.40.030. Bond. (a) The applicant shall file with the application a bond to be approved by the department in which the applicant shall be the obligor, in the sum of $5,000 with one or more sureties. The bond shall be for the use of the state and any person who may have a cause of action against the obligor under this chapter. The bond shall state that the obligor will faithfully conform to and abide by the provisions of this chapter and of all regulations lawfully made by the department, and will pay to the state and to any person all money that may become due or owing to the state or to the person from the applicant under this chapter. The aggregate liability of the surety for all breaches of the bond condition may not exceed the penal sum of the bond, and the bond may be cancelled by the surety on 30 days notice to the commissioner.

(b) If at any time the commissioner finds that the bond is unsatisfactory for any reason, he may require the licensee to file, within 10 days after the receipt of a written demand for it, an additional bond

Sec. 06.40.040. Annual license fee. On or before December 20 of each year, each licensee shall pay a fee of $200 to the department as an annual license fee for the next succeeding calendar year. At that same time the licensee shall file with the department a new bond which complies with § 30 of this chapter. (§ 1 ch 170 SLA 1978)

Sec. 06.40.050. Application for license; fee. (a) Application for a license under this chapter shall be in writing and in the form prescribed by the department.

(b) All reasonable investigation expenses incurred by the department in processing an application for approval of a proposed premium finance company shall be charged to and paid by the applicant in accordance with AS 06.01.010. At the time of submitting the application to the department, the applicant shall pay to the department $500 in partial payment of the investigation expenses incurred by the department. If the investigation expenses incurred by the department do not exceed $500, the remainder shall be promptly refunded to the applicant.

(c) The person to whom the license may be or is issued shall file sworn answers to interrogatories required by the commissioner. The commissioner shall have authority, at any time, to require the licensee fully to disclose the identity of all directors, partners, officers and managerial employees, and he may, in his discretion, refuse to issue or continue a license in the name of any firm or corporation if he determines that any officer, employee, stockholder or partner of the firm or corporation who may materially influence the licensee's conduct does not meet the requirements of this chapter.

(d) All premium finance licenses shall continue in force until suspended or revoked, subject to the payment by the licensee of the annual license fee and to the licensee being in compliance with other provisions of this chapter. (§ 1 ch 170 SLA 1978)

Sec. 06.40.060. Place of business. (a) A licensee may maintain only one place of business under his license. The department may issue more than one license to the same licensee upon application and compliance by the licensee with the provisions of this chapter governing the original issuance of a license.

(b) Whenever a licensee changes his place of business to another location, he shall give written notice to the department. The department shall attach the written notice of the change to the license together with the date. Thereafter, the licensee may operate the business under the license at the new location. (§ 1 ch 170 SLA 1978)

Sec. 06.40.070. Investigation: Qualifications for license. (a) Upon the filing of an application and payment of the investigation fee specified in § 50(b) of this chapter, the commissioner shall

received the application, at the request of the applicant, give the applicant a full hearing.

(b) The commissioner shall issue a license to an applicant when he is satisfied that the applicant

(1) is competent and trustworthy and intends to act in good faith in the capacity involved by the license applied for;

(2) has a good business reputation and has had experience, training, or education so as to be qualified in the business for which the license is applied; and

(3) if a corporation, is a corporation incorporated under the laws of this state or a foreign corporation authorized to transact business in this state. (§ 1 ch 170 SLA 1978)

Sec. 06.40.080. Revocation and suspension of license. The commissioner may revoke or suspend the license of any licensee when, upon completion of an investigation, the commissioner determines that

(1) the license issued to the company was obtained by fraud;

(2) there was misrepresentation in the application for the license;

(3) the holder of the license has otherwise shown himself untrustworthy or incompetent to act as a premium finance company; or

(4) the licensee has violated any of the provisions of this chapter. (§ 1 ch 170 SLA 1978)

Article 2. Operations

Section
90. Advertising of misleading statements prohibited, disclosure of interest
100. Record keeping; examination of records
110. Contents of premium finance agreement
120. Maximum interest permitted: Prepayment, refund
130. Delinquency charge
140. Cancellation of policy; requirements
150. Return of unearned premiums

Sec. 06.40.090. Advertising of misleading statements prohibited; disclosure of interest. (a) No person may advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner, any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action which is false, misleading, or deceptive.

(b) The licensee or lender shall state the interest rate charged in a premium finance agreement fully and clearly as an annual percentage rate. (§ 1 ch 170 SLA 1978)

Sec. 06.40.100. Record keeping; examination of records. (a) Every licensee shall maintain records of its premium finance transactions.

licensee. All records pertaining to insurance contracts financed by Alaska residents shall be maintained or readily available in the licensee's office. The commissioner may, at any reasonable time, require the licensee to bring records pertaining to premium finance agreements to his office for examination. The expenses incurred by the department in conducting an examination shall be charged to and paid by the licensee in accordance with AS 06.01.010.

(b) Every licensee shall preserve its records of premium finance transactions, including cards used in a card system, for at least three years after making the final entry relating to any premium finance agreement. The preservation of records in photographic form constitutes compliance with this requirement.

(c) Each licensee shall, on or before March 15 of each year, file a report with the department containing information as the department may reasonably require concerning the business and operations during the preceding calendar year of each licensed place of business conducted by the licensee. The report shall be made under oath, shall be in the form prescribed by the department, and shall be kept available as a public record. (§ 1 ch 170 SLA 1978)

Sec. 06.40.110. Contents of premium finance agreement. (a) A premium finance agreement shall

(1) be dated, signed by the borrower, and the printed portion of it shall be in at least eight-point type;

(2) contain the name and place of business of the insurance agent negotiating the related insurance policy, the name and residence or the place of business of the borrower as specified by him, the name and place of business of the licensee to which payments are to be made, an identification of the insurance policy involved and the amount of the premium charged for it; and

(3) set out the following items where applicable:

(A) the total amount of the premiums;

(B) the amount of the down payment;

(C) the principal balance (the difference between (A) and (B) of this paragraph);

(D) the annual percentage rate of interest; and

(E) the number of payments required, the amount of each payment expressed in dollars, and the due date or period of it.

(b) The items set out in (a)(3) of this section need not be stated in the sequence or order in which they appear in (a) of this section, and additional items may be included to explain the computations made in determining the amount to be paid by the insured.

(c) The repayment schedule relating to dwelling fire, homeowner, private passenger automobile boats not used for commercial

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

Sec. 06.40.120. Maximum interest permitted: Prepayment, refund. (a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after substracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of $10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

Sec. 06.40.130. Delinquency charge. (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of $1 and as a maximum shall be subject to the following limits:

(1) for delinquent payments of less than $250, five per cent of the payment or $5, whichever is less; or

(2) for delinquent payments of $250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that

insurance policy may not be cancelled by the licensee unless the cancellation is effectuated in accordance with this section.

(b) The licensee shall give not less than 10 days written notice to the borrower, by mailing by certified mail or documented by an affidavit of mailing, of the licensee's intent to cancel the insurance policy unless the default is cured within that 10-day period. A copy of the notice shall also be mailed by certified mail or documented by an affidavit of mailing to the insurance agent indicated on the premium finance agreement.

(c) After expiration of the 10-day period specified in (b) of this section, the licensee may, in the name of the borrower, cancel the insurance policy by mailing by certified mail or documented by an affidavit of mailing to the insurer a notice of cancellation. The insurance policy shall be cancelled as if the notice of cancellation had been submitted by the borrower himself, but without requiring the return of the insurance policy. The licensee shall also mail by certified mail or documented by an affidavit of mailing a notice of cancellation to the borrower at his last-known address and to the insurance agent indicated on the premium finance agreement.

(d) All statutory, regulatory and contractual restrictions providing that the insurance policy may not be cancelled unless notice is given to a governmental agency, mortgagee, or other third party shall apply where cancellation is effected under the provisions of this section. The insurer shall give the prescribed notice on behalf of itself or the borrower to any governmental agency, mortgagee, or other third party on or before the fifth business day after the day it receives the notice of cancellation from the licensee and shall determine the effective date of cancellation taking into consideration the number of days' notice required to complete the cancellation. (§ 1 ch 170 SLA 1978)

Sec. 06.40.150. Return of unearned premiums. (a) Whenever a financed insurance policy is cancelled and provided the insurer has been notified of the assignment of interest of the insured to the licensee, the insurer within 60 days of the effective date of cancellation shall take such steps as are necessary to have any gross unearned premiums that are due under the insurance policy returned to the licensee for the account of the borrower if the licensee has complied with the notice provisions of § 140(b) of this chapter.

(b) If the crediting of return premiums to the account of the borrower results in a surplus over the amount due from the borrower, the licensee shall refund the excess to the borrower; however, no refund is required if it amounts to less than $1. (§ 1 ch 170 SLA 1978)

Article 3. General Provisions.

Sec. 06.40.160. Civil and criminal penalties. (a) A lender who, in the making of any contract, loan or premium finance agreement or the collection of interest or charges, does any act which violates §§ 10 — 20, 90, or 110 — 130 of this chapter shall at the option of the commissioner reimburse that portion of the interest and charges in excess of that provided in those sections, or, in the case of repeated violations of those sections by the lender, the lender shall adjust the contract, loan, or premium finance agreement interest and other charges down to the contract interest limitation specified in AS 45.45.010(a).

(b) Any person, copartnership, association, or corporation, and its members, officers, directors, agents, and employees, who violates or participates in a violation of the provisions of § 10 of this chapter, is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both. In case of conviction of a corporation for violation of this chapter, the corporation is punishable by a fine of not more than $20,000. (§ 1 ch 170 SLA 1978)

Sec. 06.40.170. Filing not required to perfect validity of agreement. No filing under AS 45.05 of the premium finance agreement is necessary to perfect the validity of the agreement as a secured transaction against creditors, subsequent purchasers, pledgees, encumbrancers, successors or assigns. (§ 1 ch 170 SLA 1978)

Sec. 06.40.180. Regulations, orders. The commissioner shall adopt regulations necessary to carry out this chapter, and the commissioner may order any person to cease violation of this chapter or a regulation adopted under it. (§ 1 ch 170 SLA 1978)

Sec. 06.40.190. Definitions. As used in this chapter, unless the context otherwise requires,

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

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

(3) "premium finance agreement" means an agreement by which a borrower or prospective borrower promises to pay to a licensee or to its assignee the amount advanced or to be advanced under the agreement to an insurer or to an insurance agent or broker in payment of premiums on an insurance policy sold in this state or covering risks located in this state together with a service charge, and as a security for it the premium finance company receives an assignment of the unearned premium; however, no mortgage, conditional sale contract, or other security agreement covering property which authorizes the lienholder to pay or advance premiums for insurance under the mortgage, contract, or other

security agreement is considered to be a premium finance agreement;

(4) "premium finance company" means a person engaged in the business of entering into premium finance agreements with borrowers or of acquiring premium finance agreements from insurance agents, brokers or other premium finance companies. (§ 1 ch 170 SLA 1978)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 279

Title An Act Relating to the "Wild Card Statute"

Requested by Senate Labor & Commerce Date 3/19/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

SB

280

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

April 13, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:07 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 278 "An Act relating to savings associations."

Chairman Mulcahy entertained a motion to move SB 278 out of Committee.

Next on the agenda was SB 279 " An Act relating to the general powers of the Department of Commerce and Economic Development."

Mr. Kirkpatrick, Director, Division of Banking testified in favor of SB 279. (tape reading 025 to 092)

Chairman Mulcahy entertained a motion to move SB 279 out of committee.

Next on the agenda was SB 280 "An Act relating to credit unions."

Mr. Kirkpatrick continued his testimony, addressing SB 280. (tape reading 100 to 134)

Chairman Mulcahy entertained a motion to move SB 280 out of committee.

The meeting was adjourned by Chairman Mulcahy at 3:16 P.M.

COMMITTEE REPORT

SENATE

3/13/81 FURTHER: None

Date: April 13, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 280

credit unions

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Mitch Rader
Bob Melcher

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Robinson move
Z-C N. Rec
Robinson Z-C N. Rec

Bob Melcher
CHAIRMAN

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 280:

Provides authority for the establishment of credit unions, to make available the benefits of credit unions which are cooperative, non-profit corporations. The Legislature intends to vest in the Dept. of Commerce and Econ Dev. the authority to allow by regulation those powers possessed by State Chartered credit unions in other states which the Dept. determines have demonstrated will aid in the achievement of their goals.

The commissioner may by regulation define the powers of state chartered credit unions and adopt regulations to carry out there purposes.

Loans to members shall be made in conformity with regulations adopted by the commissioner, except that the rate of interest may not exceed 15% per year or the rate specified in AS 45.45.110(b).

Loans shall be made in conformity with regulations adopted by the commissioner except that the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25% of the assets of the credit union without the written approval of the commissioner.

Without the approval of the commissioner, a credit union with less than $3,000,000 assets may not make real estate loans with maturities in excess of 15 years.

Allows a credit union to establish share draft accounts.

Credit unions shall participate in insurance of member accounts under a program offered by the National Credit Union Administration Board, or a program of comparable insurance approved by the commissioner.

PAGE 2 RELATES TO SB 280

Alaska Statebank
Michael S. Lynch, President
P. O. Box 240 Anchorage, Alaska 99510 907/277-5661

RECEIVED
MAR 23 1981

March 17, 1981

Senator Patrick Rodey
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

You have asked the Legislative Affairs Committee of the Alaska Bankers Association to respond in writing to various bills now before the legislature. After examining the bills and discussing them, both in the Legislative Affairs Committee and with other members of the Alaska Bankers Association, we have the following comments:

Senate Bill 135: We support the bill in its present form. We are concerned that the funds for Alaska Housing Finance Corporation reach them as soon as possible. Based on current projections by the members of our association, the public has already or will soon make applications to the financial institutions in Alaska in an amount that would utilize those funds along with the monies Alaska Housing Finance Corporation has remaining from its last bond issue.

Also, we understand that it may be the desire of the legislature to change the rate at which Alaska Housing Finance Corporation makes loans to homeowners. While this is an area that deserves study, we believe it should be considered as part of any program starting in July 1981, not this supplemental appropriation.

Senate Bill 278: This is a bill to amend the Savings and Loan Association's statutes and we concur in the amendments except Section 3. We believe this level of debt from a single borrower would be imprudent. It would mean that the entire net worth of an association could be wiped out by one bad loan. Commercial banks are limited to 10% of capital to a single borrower and history has shown that this is a good benchmark.

Senate Bill 280: This is a bill amending various sections of the Credit Union's statutes. All sections seem designed to bring the State Credit Union laws in line with Federal Credit Unions and other financial institutions, and we support all amendments. We do believe, however, that an increase of rate to 15% is not enough and 18% would be better.

Amendment to AS 06.01.020: This the amendment to make workable what is called "The Wild Card" provision and we support this amendment.

"An Act Relating to Interest Rates":

Section 1 - Amendment to AS 06.20.230 (b): This is an amendment to the Small Loan Act. It allows their rate limit to move daily and, therefore, more nearly reflect the true market. We support this amendment.

Section 2 - Amendment to AS 09.55.440 (a): While this is an amendment unrelated to banking, we support the philosophy of paying market rates and, therefore, we support this amendment.

Section 3 and 4 - These sections take Alaska out from under the federal usury laws and put it back under the existing state statute. The existing state statute is more restrictive than the federal laws and, therefore, we oppose sections 3 and 4. We feel that by reducing controls on interest rates all sectors of the market will be better able to freely compete for lendable funds. These two sections without a new state usury statute would be a step backwards.

Sincerely yours,

Michael S. Lynch
President

cm

examination or investigation has been completed. All assessments sh be paid to and received by the department by each institution within 3. days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than $100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

(1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

Section
130. Applications for membership
140. Powers and duties of credit committee
150. Loan restriction
160. Security
170. Powers and duties of supervisory committee
180. Reserves
190. Dividends
200. Expulsion and withdrawal
210. Minors or trusts
220. Suspension
230. Exemption from taxation
240. Conversions
250. Insurance of member accounts
260. Liquidity facility participation
270. Conflict of interest
280. Merger
290. Branch offices
300. Unauthorized conduct of credit union business
310. Transfer of credit union's property to preferred creditor is void
320. Unlawful deceit of commissioner or examiners
330. Receipt of deposits while insolvent
340. Limitations on credit unions
400. Definitions

Effective date of chapter. — Section 4, ch. 47, SLA 1980, makes this chapter effective July 1, 1980.

Sec. 06.45.010. Responsibility of commissioner. (a) The commissioner shall administer this chapter.

(b) The commissioner may adopt regulations for the administration of this chapter.

(c) The commissioner may delegate any authority, power, or function granted by this chapter.

(d) The records of credit unions shall be kept and reports shall be made in accordance with regulations approved by the commissioner.

(e) A person appointed or elected by a credit union to a position requiring the receipt, payment, or custody of money or personal property owned by a credit union or in its custody or control as collateral or otherwise shall give bond in a corporate surety company approved by the commissioner on a form approved by the commissioner and in an amount prescribed by the commissioner. The commissioner may approve the use of a form of schedule or blanket bond which covers all the officers and employees of a credit union whose duties include the receipt, payment, or custody of money or other personal property for or on behalf of the credit union. The commissioner may approve the use of a form of excess coverage bond under which a credit union may obtain coverage in excess of the basic surety coverage. (§ 2 ch 47 SLA 1980)

Sec. 06.45.020. Formation of credit union. (a) Seven or more natural persons who desire to form a credit union shall subscribe before an officer competent to administer oaths articles of incorporation in duplicate which shall state

(1) the name of the credit union;

(4) for an examination under AS 06.45.050.

(b) Failure of a credit union to pay a fee required by (a)(2), (3), or (4) of this section within 30 days of receipt of billing from the commissioner is grounds for the revocation of the certificate of authority of the credit union. (§ 2 ch 47 SLA 1980)

Sec. 06.45.050. Reports and examinations. A credit union organized under this chapter is under the supervision of the commissioner and shall make an annual financial report to the commissioner and shall make other financial reports required by regulations adopted by the commissioner. A credit union is subject to examination by the commissioner. (§ 2 ch 47 SLA 1980)

Sec. 06.45.060. Powers of a credit union. A credit union has succession in its corporate name during its existence and may

(1) enter into a contract;

(2) sue and be sued;

(3) adopt, use, and alter a common seal;

(4) purchase, hold, and dispose of property;

(5) make loans, the maturities of which may not exceed 12 years except as provided in this chapter, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be

approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed $5,000;

(vi) the rate of interest may not exceed one percent a month on the unpaid balance inclusive of all service charges;

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid, the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

(viii) a borrower may repay a loan before maturity in whole or in part on any business day without penalty;

(ix) loans shall be paid or amortized under regulations adopted by the commissioner which consider the needs or conditions of the borrowers, the amounts and duration of the loans, the interests of the members and the credit union, and other factors established in regulations adopted by the commissioner;

(x) the total dollar amount of real estate loans and mobile home loans outstanding may not exceed 25 percent of the paid-in and unimpaired capital and surplus of the credit union without the written approval of the commissioner;

(xi) a credit union with a paid-in and unimpaired capital and surplus of less than $3,000,000 may make real estate loans with maturities in excess of 15 years only with the approval of the commissioner;

(B) a self-replenishing line of credit to a borrower may be established to a stated maximum amount on terms and conditions which may be different from terms and conditions established for another borrower;

(C) loans to other credit unions require the approval of the board of directors of the loaning credit union;

(D) loans to credit union associations require the approval of the board of directors of the credit union and may not exceed one percent of the paid-in and unimpaired capital and surplus of the credit union;

(E) participation loans with other credit unions, credit union associations, or financial organizations shall be made in accordance with written policies of the board of directors of the credit union, except that a credit union which originates a loan for which participation arrangements are made in accordance with this section shall retain an interest not less than 10 percent of the face amount of the loan;

(6) receive from its members and from others payments on shares which may be issued at varying dividend rates, and payments on share

certificates which may be issued at varying dividend rates and maturities, subject to terms, rates, and conditions as may be established by the board of directors of the credit union, within limitations prescribed by the commissioner;

(7) invest its funds

(A) in loans exclusively to members;

(B) in obligations of the United States or securities fully guaranteed as to principal and interest by the United States;

(C) in loans to other credit unions in the total amount not exceeding 25 percent of its paid-in and unimpaired capital and surplus in accordance with regulations adopted by the commissioner;

(D) in shares or accounts of savings and loan associations or mutual savings banks which are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation;

(E) in obligations issued by banks for cooperatives, federal land banks, federal intermediate credit banks, federal home loan banks, the Federal Home Loan Bank Board, or a corporation designated in 31 U.S.C., § 846 as a wholly owned federal government corporation; in obligations, participations, or other instruments of or issued by or fully guaranteed as to principal and interest by the Federal National Mortgage Association or the Government National Mortgage Association; in mortgages, obligations, or other securities which are or have been sold by the Federal Home Loan Mortgage Corporation under § 305 or § 306 of the Federal Home Loan Mortgage Corporation Act; or in obligations or other instruments or securities of the Student Loan Marketing Association;

(F) in participation certificates evidencing beneficial interests in obligations, or in the right to receive interest and principal collections from obligations, which have been subjected by one or more federal agencies to a trust or trusts for which an executive department, agency, or instrumentality of the United States or its head has been named to act as trustee;

(G) in shares or deposits of a central credit union in which such investments are authorized by the board of directors of the credit union making the investment;

(H) in shares, share certificates, or share deposits of federally insured credit unions;

(I) in the shares, stocks, or obligations of another organization providing services which are associated with the routine operations of credit unions, up to one percent of the total paid-in and unimpaired capital and surplus of the credit union with the approval of the commissioner; and

(J) in the capital stock of the National Credit Union Central Liquidity Facility;

(8) make deposits in national banks and in state banks, trust companies, and mutual savings banks operating in accordance with the laws of the state;

(9) borrow in accordance with regulations adopted by the commissioner from any source, in an aggregate amount not exceeding 50 percent of its paid-in and unimpaired capital and surplus, except that a credit union may discount with or sell to a federal intermediate credit bank an eligible obligation up to the amount of its paid-in and unimpaired capital;

(10) levy late charges, in accordance with the bylaws, for failure of members to meet promptly their obligations to the credit union;

(11) levy and enforce a lien upon the shares and dividends of a member to the extent of a loan made to, and any dues or charges payable by, the member;

(12) in accordance with regulations adopted by the commissioner, sell to members negotiable checks, travelers checks, and money orders, and cash checks and money orders for members, for a fee which does not exceed the direct and indirect costs incident to providing the service;

(13) in accordance with regulations adopted by the commissioner, purchase, sell, pledge, discount, or otherwise receive or dispose of, in whole or in part, eligible obligations of its members and purchase from a liquidating credit union notes made by individual members of the liquidating credit union at prices agreed upon by the board of directors of the liquidating credit union and the board of directors of the purchasing credit union; a purchase may not be made under authority of this paragraph if, upon the making of the purchase, the aggregate of the unpaid balances of notes purchased under authority of this paragraph exceeds five percent of the unimpaired capital and surplus of the credit union;

(14) sell all or a part of its assets to another credit union, purchase all or part of the assets of another credit union, and assume the liabilities of the selling credit union and those of its members subject to regulations of the commissioner; and

(15) exercise incidental powers as are necessary or required to enable it to carry on effectively the business for which it is incorporated. (§ 2 Ch. SLA 1980)

Sec. 06.45.080. Membership. Credit union membership consists of the incorporators and other persons and incorporated and unincorporated organizations, to the extent permitted by regulations adopted by the commissioner, elected to membership. Each member shall subscribe to at least one share of the stock of the credit union and pay the initial installment on the stock and a uniform entrance fee if required by the board of directors of the credit union. Credit union membership is limited to groups having a common bond of occupation or association, or to groups within a well-defined neighborhood, community, or rural district. Shares may be issued in joint tenancy with right of survivorship with a person designated by the credit union member. A joint tenant may not be permitted to vote, obtain loans, or

Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.080. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340(e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.040(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a), and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 280

Title An Act relating to State chartered credit unions.

Requested by Senate Labor and Commerce Date 3/19/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

SB

281

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 281:

Ammends the Small Loans Act, and relates to open-ended loans and the maximum rate of interest permitted. The interest may not exceed the greater of 1½% per month (18%), or 8% points above the Federal Reserve Discount Rate on 90 day commercial paper charged to banks for advances by the 12th Fed. Res District.

A judgement, after the declaration of taking, shall include lawful interest on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of judgement.

rel. to Sen. 2 of SB 281

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February 6, 1981

Please reply to: ANCHORAGE

Senator Patrick Rodey
Pouch V
Juneau, AK 99811

RE: Senate Bill No. 19

Dear Senator Rodey:

I would like to take this opportunity to offer some suggestions for amendments to Senate Bill No. 19, "An act relating to the legal rate of interest; and providing for an effective date," introduced January 13, 1981 under your sponsorship and presently referred to the Senate Labor and Commerce Committee.

Due to apparent oversight by the legislature in prior sessions, an inequitable anachronism has been carried forward in the statutes of Alaska. AS 09.55.440(a) provides that the rate of judgment interest awarded under a declaration of taking proceeding will equal six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. This provision was enacted in 1962, and has never been amended (ch. 101, § 13.21, SLA 1962 .

By way of background, a declaration of taking is often used by the State of Alaska in lieu of a complaint for condemnation and the correlative court order for possession. It provides for immediate possession in the State; otherwise the State must await the execution of an order giving it possession. The impact upon Alaskan landowners is the same regardless of whether their land is taken by a declaration of taking or a complaint for condemnation. However, a different rate of interest is paid to the landowner depending upon which method is used by the State. When a complaint seeking condemnation and an order for possession is used,

interest due the landowner (on amounts not deposited by the State) is governed by AS 09.55.330 which provides that the "lawful" rate of interest (AS 45.45.010) applies. This provision was enacted along with the provision applying to declarations of taking in 1962 (ch. 101, § 13.10, SLA 1962). Accordingly, it can be seen that in 1962 the legislature provided for the payment of interest at the rate of six per cent whether a declaration of taking or complaint seeking condemnation and an order for possession was used. However, in 1976 the statute setting the "lawful" rate of interest in Alaska [AS 45.45.010(a)] was amended to increase the rate of interest from six per cent to eight per cent. However, it would appear that no one has brought to the attention of the legislature the fact that interest under a declaration of taking condemnation remains at six per cent. Subsequent increases in the legal rate of interest have similarly failed to be reflected in AS 09.55.440(a).

It has been my unfortunate experience to witness the inequitable application of the six per cent interest statute to many landowners whose land is taken for public use. Surely, the procedural means by which possession is taken by the State should not dictate the rate of interest to be paid landowners on compensation which is delayed. However, attorneys in the Office of the Attorney General for the State of Alaska, while apparently recognizing the inequity of such differential treatment, are bound by AS 09.55.440(a).

The inequity in treatment was recently noted by the Supreme Court for the State of Alaska in State of Alaska v. Alaska Continental Development Corporation and Alaska General Properties, Inc., No. 2254, December 31, 1980 (emphasis added):

> We note the disparity between the interest rate specified in AS 09.55.440(a) and the other statutes mentioned. We also are concerned about the inequity in awarding a higher rate of interest on judgments obtained in one form of eminent domain proceeding than in another, as may result from the current provisions of AS 09.55.440(a) and AS 09.55.330. We strongly urge the legislature to consider amending what appears

> to be a defect in the current statutory scheme. But we decline to repeal by judicial action the clear and unambiguous provision of an enactment of the legislature on the grounds that it must be an oversight.

Although the Alaska Supreme Court's recognition of the doctrine of separation of powers is admirable, landowners in the State of Alaska remain in need of an amendment to bring the rate of interest under a declaration of taking eminent domain proceeding in line with the other interest rate provisions in the Alaska statutes.

Since Senate Bill No. 19 will focus the legislature's attention on interest rate matters, it would seem an amendment or amendments may be attached to the bill which will remedy the inequitable situation described above. I would recommend for your consideration amendments to Senate Bill No. 19 along the following lines:

1. Insert a new Section 3--"AS 09.55.440(a) is amended to read:

   (a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include lawful interest [AT THE RATE OF SIX PERCENT PER YEAR] on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

2. Renumber present Section 3 of Senate Bill No. 19 as Section 4.

I am enclosing for your convenience a copy of the relevant section from State of Alaska v. Alaska Continental Development Corporation and Alaska General Properties, Inc., No. 2254, December 31, 1980, and a version of Senate Bill No. 19 with the suggested amendments. Please feel free to contact me should you have any questions or need for further information with respect to this matter. I thank you for your time and consideration.

Very truly yours,

Steven S. Tervooren

Steven S. Tervooren

SST/bs

Enclosure

cc: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

tiff to be just compensation for the property or the interest in it. (§ 13.20 ch 101 SLA 1962)

Cross reference. — See Civ. R. 72-(e)(3).

Where the state has adequate knowledge of separate interests, amounts should be specified for each. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

Sec. 09.55.440. Vesting of title and compensation. (a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include interest at the rate of six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess. (§ 13.21 ch 101 SLA 1962)

Cross reference.—See Civ. R. 72-(e)(3).

Condemnor takes estate sought in declaration of taking. — The Alaska declaration of taking statutes are as effective as the federal statutes in effecting the vesting of title in the condemnor of whatever interest in the land it seeks to condemn. If the state undertakes to obtain title to real property in fee simple absolute by the filing of a declaration of taking that is the title which it obtains. 1960 Op. Att'y Gen., No. 15.

Alaska Const., art. I, § 18, necessitates that a property owner be compensated for delays incurred between the dates of the government's taking of property and making payment. If an award were paid immediately upon the taking of the land by the state no damages to the property owner would ensure. But where, due to the necessity of legal proceedings to ascertain fair market value of property, delays ensue, the property owner is entitled to an adequate sum to reimburse him for the loss of use of the money during the period of such delay. To hold otherwise would constitute a taking of the property without just compensation. Therefore, it is well established that the owner of property is entitled to interest from the date of taking to the date of payment. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

This section provides for interest on the amount awarded which exceeds the amount paid into court under the declaration of taking. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Au-

"A person may" near the beginning of the subsection.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under this chapter or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments.

The 1979 amendment added subsection (b).

The 1980 amendment, effective June 5, 1980, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the persent introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the

tiff to be just compensation for the property or the interest in it. (§ 13.20 ch 101 SLA 1962)

Cross reference. — See Civ. R. 72-(e)(3).

Where the state has adequate knowledge of separate interests, amounts should be specified for each. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

Sec. 09.55.440. Vesting of title and compensation. (a) Upon the filing of the declaration of taking and the deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include interest at the rate of six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess. (§ 13.21 ch 101 SLA 1962)

Cross reference.—See Civ. R. 72-(e)(3).

Condemnor takes estate sought in declaration of taking. — The Alaska declaration of taking statutes are as effective as the federal statutes in effecting the vesting of title in the condemnor of whatever interest in the land it seeks to condemn. If the state undertakes to obtain title to real property in fee simple absolute by the filing of a declaration of taking that is the title which it obtains. 1960 Op. Att'y Gen., No. 15.

Alaska Const., art. I, § 18, necessitates that a property owner be compensated for delays incurred between the dates of the government's taking of property and making payment. If an award were paid immediately upon the taking of the land by the state no damages to the property owner would ensure. But where, due to the necessity of legal proceedings to ascertain fair market value of property, delays ensue, the property owner is entitled to an adequate sum to reimburse him for the loss of use of the money during the period of such delay. To hold otherwise would constitute a taking of the property without just compensation. Therefore, it is well established that the owner of property is entitled to interest from the date of taking to the date of payment. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

This section provides for interest on the amount awarded which exceeds the amount paid into court under the declaration of taking. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Au-

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 281

Title An Act relating to interest calculation and state preemption of federal usury statutes

Requested by Senate Labor and Commerce Committee Date 3/19/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

SB

282

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 282:

Ammends AS45.45.010, (trade practices, legal rate of interest) A broker-dealer registered under AS45.55 may charge a margin account customer interest up to eight percentage points above the annual rate charged member banks by the 12th Federal Reserve District that pervailed on the day the loan or commitment was made.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

114 SOUTH FRANKLIN STREET

JUNEAU, ALASKA 99801

(907) 586-6000

MEMBERS
NEW YORK STOCK EXCHANGE, INC
AMERICAN STOCK EXCHANGE, INC
PACIFIC STOCK EXCHANGE, INC
MIDWEST STOCK EXCHANGE, INC
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

DATE	FEDERAL DISCOUNT RATE	BASE RATE*	OUR COST
10/28 - 11/2	11%	10%	14 %
11/3 - 11/5	11%	10%	14 1/2%
11/6 - 11/16	11%	10%	15 1/2%
11/17	12%	10%	16 3/4%
11/18 - 11/23	12%	10%	17 1/4%
11/24 - 11/27	12%	10%	17 3/4%
11/28 - 12/4	12%	10%	18 1/2%
12/5 - 12/14	13%	10%	20 %
12/15 - 12/17	13%	10%	21 %
12/18 - 12/22	13%	10%	22 %
12/23 - 12/28	13%	10%	21 %
12/29	13%	10%	20 %
12/30 - 1/27	13%	13%	20 1/2%
1/28 - 2/2	13%	13%	20 %
2/3 - 2/9	13%	13%	19 %
2/10 - 2/20	13%	13%	18 1/2%
2/21 - 2/23	13%	13%	18 %
2/24 - 3/9	13%	13%	17 1/2%
3/10 - 3/11	13%	13%	17 %
3/12 - Present	13%	13%	16 1/2%

* Add 5% for Alaska Usury Limit

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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

M E M O R A N D U M February 11, 1981

SUBJECT: Ray Amendments to SB 19-Security Brokerage Exemption

TO: Senator Bob Mulcahy

FROM: Thomas A. Sofo
Legislative Counsel

You have asked this office to proposed draft language for amending SB 19 in a manner which would exempt security brokerage firms from the usury ceiling of AS 45.45.010(b). In looking into this matter I have reviewed the testimony submitted by Mr. Fred Koken dated February 2 and February 9, 1981. Statements made by Mr. Koken have raised several matters which call for further development.

As a preliminary matter, the more recent memo of Mr. Koken (February 9, 1981) and the attached bill before the House in the state of Washington has clarified the scope of the exemption with which we are dealing. Based upon the Washington approach I would suggest that any exemption to AS 45.45.010(b) be limited to persons registered under AS 45.55 which is the Alaska Securities Act. I do not see a need to include reference to the Federal Securities and Exchange Act of 1934 as did the Washington bill since, for our purposes, the coverage is apparently concurrent. Reference to AS 45.55 goes a long way toward addressing my concern that we do not open the door for other unintended persons or institutions to claim the exemption which we are considering. There is however a further consideration which needs to be addressed. Mr. Koken's February 2, 1981 statement mentioned that it is not merely the type of institution which must be considered but also the nature of the "loan" which it makes. In that earlier statement he discusses terms such as "effective annual rate" and "open line" of credit. Reference to these concepts would apparently alleviate the problem which his firm, and those similarly situated, have

experienced in these inflationary times. The problem which this creates is that the terms "effective annual rate" and "open line" of credit are not defined anywhere in the statutory base which makes up the text of the Alaska Statutes. Washington House Bill 96 attached to the February 9, 1981 statement of Mr. Koken suggests that the exemptions should be available if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to credit regulations of the federal reserve system. Although I am not sure, I do not believe the two approaches outlined in the February 2, and February 9 statements of Mr. Koken would accomplish equivalent results.

We could of course merely exempt persons registered under AS 45.55 from the interest ceilings setup in AS 45.45.010(b). That particular approach leaves the still further question as to whether we merely want to exempt them from the ceiling in subsection (b) or create a different ceiling for them. Mr. Koken's February 2, 1981 letter suggests that a higher ceiling would be appropriate while the February 9 statement indicates outright exemption from any usury ceiling.

In short, the issues which remain are (1) whether we want an outright exemption from the usury ceiling for persons registered under AS 45.55 or do we merely want to create a different ceiling for such persons, and (2) is there a need to clarify for type of "loan" which qualifies for the exemption which we are creating or do we want to exempt all such transactions, even short term loans to which rationale earlier advanced by Mr. Koken might not apply.

I hope you do not feel that I am trying to be difficult in generating a work draft on what is ostensibly a simple drafting task. The area of securities brokerage and investment counseling is one in which I have very little expertise and in which I believe we should proceed with great caution. I would be happy to discuss these matters further with you at your convenience.

TAS:blg

Enclosure

Foster & Marshall Inc.
205 Columbia Avenue
Seattle, Washington 98104

RE: Loan for Business Purposes

Dear Sir:

I understand that under the terms of a business loan of over $25,000 which I have with you, the only loan advances which you make to clients are solely for business purposes. I agree that you may rely on the statements made here concerning my margin borrowing to take advantage of State and Federal exemptions from the usuary provisions of the Revised Code of Washington.

This advance of _____ is for my business purpose of _____. I realize all the provisions of the Customer Agreement and the supplement to the Customer Agreement, which I have previously executed, will continue in effect.

Sincerely,

THIS IS A LETTER THAT IS REQUIRED FROM EACH OF OUR "BUSINESS CODE" CLIENTS BEFORE THEIR DEBIT BALANCE CAN BE INCREASED. IT IS CUMBERSOME FOR BOTH US AND THE CLIENT.

21

SUPPLEMENT TO CUSTOMER AGREEMENT
FOR MARGIN ACCOUNT CUSTOMERS

In consideration for Foster & Marshall Inc. extending and continuing to extend credit to my margin investment account, I acknowledge the following and agree to the terms and conditions herein:

1. Interest will be charged on any credit extended to or maintained for the account for the purpose of purchasing, carrying or trading in any security. The annual rate of interest which will be charged will depend on the amount of the debit balance in my account and on the New York call money rate charged to Foster & Marshall Inc. THE ACTUAL RATE OF INTEREST CHARGED WILL BE CHANGED WITHOUT NOTICE TO REFLECT EACH ADJUSTMENT IN THE NEW YORK CALL MONEY RATE. A STATEMENT OF THE RATE CURRENTLY IN EFFECT CAN BE OBTAINED FROM MY REPRESENTATIVE AT ANY TIME. The annual rate of interest will vary depending on the size of the average debit balance in the account during the month in accordance with the following schedule:

If the Average Monthly debit balance is	The interest charge over the New York call money rate will be: *
$25,000 to $29,999	1 3/4% above average call money rate
$30,000 to $49,999	1 1/4% above average call money rate
$50,000 to $99,999	3/4% above average call money rate
$100,000 and up	1/2% above average call money rate

* The New York call money rate charged Foster & Marshall Inc. as of April 22, 1980 was 19 1/2%.

The interest rate charged will not, however, exceed 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect, from time to time, at the Federal Reserve Bank in the Twelfth Federal Reserve District.

2. My margin account will be opened and carried solely for the purpose of borrowing to purchase, carry or trade investment securities in the account with the intent of increasing my net worth. I will not borrow for the purpose of withdrawing funds from the account for any other uses. I make all investment decisions for my account.

3. All or a portion of any borrowing in the account may be repaid at any time without penalty.

4. This Supplement is a supplement to the provisions of the Customer Agreement which I have previously executed and all of the provisions of such Agreement will continue in effect.

5. I understand that loans to the margin account which exceed $25,000 in the aggregate will be exempt from any state law limiting the rate or amount of interest charged a loan for business purposes.

6. I understand and agree that my margin loan is a demand loan and that you have demanded payment on May 23, 1980. I hereby authorize Foster & Marshall Inc. to refinance the balance due and owing on my account as of May 27, 1980 with the proceeds of a new margin loan to my account on that date, which new loan will be subject to my Customer Agreement and this Supplement.

I have carefully read and considered the above statement and represent and warrant that my margin account is for my business purposes. I agree that the interest rate charged on the debit balance in my account may be a floating rate based on the New York call money rate charged Foster & Marshall Inc., as set forth above and shall not be subject to any limitation on the rate of interest imposed by state law if the debit balance exceeds $25,000. I agree that you may rely on this statement of the business purpose of my margin account borrowings to take advantage of state and federal exemptions from any applicable state law.

_____ (date) _____ (signed)

_____ (city, state) _____ (signed)

NOTE: If joint account, both parties must sign.

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
215 COLUMBIA STREET
SEATTLE, WASHINGTON 98104
(206) 344-3333

MEMBERS
NEW YORK STOCK EXCHANGE, INC.
AMERICAN STOCK EXCHANGE, INC.
PACIFIC STOCK EXCHANGE, INC.
MIDWEST STOCK EXCHANGE, INC.
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

November 14, 1980

TO OUR WASHINGTON STATE RESIDENT MARGIN CLIENTS:

One of the services Foster & Marshall Inc. provides to you is the financing of security purchases on a margin basis. Historically, the rate of interest charged on margin purchases has varied directly with the brokers' cost of money which is presently approximately 15 1/2%. While the interest rate charged to our clients in other states is based on this cost, we are limited within the State of Washington to a 12% interest rate, except for business loan accounts, because of the usury limitation since we are headquartered within the State. Unlike most of our competition, we have been absorbing this differential for most accounts of Washington residents in the hope that the prime interest rate would drop below 12% or that a bill introduced in the Washington legislature during the last session would exempt margin interest from the State's 12% usury limitation and thereby recognize the true cost of carrying such accounts. While this has been the case throughout most of the country, the State legislature adjourned without taking action, and it appears that an early return to a 12% cost of money unfortunately is not a realistic possibility.

We at Foster & Marshall feel that under the circumstances we cannot indefinitely continue to absorb the increasing loss between our cost of money to finance margin accounts and the rate we have been charging our Washington clients.

A recent amendment to Federal legislation (H.R. 4986) provides an exemption from state usury for loans in excess of $1,000 which are for business purposes, and the amendment confirms that a margin loan to purchase securities is a business loan. Since economic reality requires that we either charge a higher interest rate or call the margin loans outstanding and limit new loans, we intend to call the outstanding balance of those margin accounts whose debits exceed $10,000 or convert them to new loans on December 20, 1980, to the extent that they are being made for business purposes in margining the accounts. We may further reduce this requirement to $5,000 if we are not given relief by the State legislature.

We are enclosing an agreement for you to sign and return to us confirming that your margin loan is exclusively for business purposes and not for personal purposes. This agreement will supplement your Customer Agreement. Clients who sign and recurn this agreement prior to December 20, 1980, will be charged the standard Foster & Marshall interest rate on margin accounts as is applicable in all other states. A statement showing the methods used to compute interest is also enclosed, and in no event will the interest charge exceed 5 percent in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve Bank in the Twelfth Federal Reserve District.

Since the funds from an exempt business loan cannot be used for any purposes other than a business purpose, clients will not be able to withdraw any funds from their account which may be deemed to be proceeds of the loan for non-business purposes. After December 20, 1980, no withdrawals may be made from your margin account unless the withdrawal is the proceeds of a sale, a dividend, bond interest, etc., credited to the account that day, or you first provide satisfactory written certification to Foster & Marshall that the funds are to be used solely for a business purpose. If you wish, your account may be set up to automatically send you dividends or bond interest as it is credited to your account.

Please carefully read and understand the enclosed agreement and execute it if it is satisfactory. Those clients who do not sign and return this agreement either because their margin loans are wholly or partially for non-business purposes or because they do not wish to incur the higher interest rate will be required to deposit cash, liquidate securities, or make other arrangements to repay their margin account balance by December 20, 1980.

I have explained the background of our present dilemma so that you can understand why Foster & Marshall has been forced to take this action. It is not our desire to affect adversely the investment practices of any of our Washington clients, but rather to put them on the same basis as our clients in other states for interest purposes and to maintain our responsibility to all our clients to remain a viable and well-capitalized organization. We have suffered an increasing loss from this area of our business as long as we reasonably could, but the continued rise of interest rates has given us no alternative.

A copy of the agreement is enclosed for your records as well as a self-addressed, postage-free envelope to return your signed copy.

We value our relationship with you and we hope that you will understand why we have made this decision.

Sincerely,

FOSTER & MARSHALL INC.

Michael G. Foster
President

STATE OF ALASKA

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce & Economic Development	Labor & Commerce	SB-19

Department Position

Not opposed

Division Director	Date	Commissioner	Date
Willis [illegible]	1/19/81	Charles R [illegible]ber	1/19/81

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
None of which I am aware	None of which I am aware
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**
All Alaska Financial Institution	None of which I am aware

3. Program Effects of Bill

None if passes as proposed.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

Consideration could be given for the removal of all interest rate ceilings. This would let each financial institution compete based on their costs and other competitive factors.

6. Comments:

The present quarterly adjustments do not allow for sudden changes in money market conditions. The daily calculation of the legal rate of interest will allow lenders to quickly adjust their charges as changes in the discount rate occur. AS 45.45.010(d) as stated in the bill must be repealed in order that the lender may quickly calculate the applicable interest rate without the delay of an intervening level of authority. Of necessity, AS 45.45.010 must be self-regulating.

Div. of Banking

01-002(Rev. 5/80)

FOSTER & MARSHALL INC.
INVESTMENT BANKERS AND BROKERS
114 SOUTH FRANKLIN STREET
JUNEAU ALASKA 99801
907 586-6030

MEMBERS
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MIDWEST STOCK EXCHANGE INC
CHICAGO BOARD OPTIONS EXCHANGE

OFFICES
IN THE PRINCIPAL CITIES OF THE
PACIFIC NORTHWEST AND ALASKA

February 2, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred H. Foken
First Vice President
Foster & Marshall, Inc.

Security brokerage firms and other businesses that extend open lines of credit to their customers finance these loans through borrowings from major banks. The rate that is paid (the broker call rate/prime lending rate) moves up and down or "floats" with money market rates and the policy of the Federal Reserve Bank. In years past these rates have moved in a fairly narrow range and in an orderly manner. However, in the past eighteen months we have seen the broker call rate/prime lending rate make wide swings in very short periods of time. The current Alaska State usury law does not allow the necessary flexibility to keep pace with these interest rate changes and in fact can cause substantial losses to firms that extend open lines of credit.

EXAMPLE: Foster & Marshall is currently extending approximately $2,700,000 in credit to Alaska residents. Under current law the maximum that can be charged is 18%. This is 5% above the 13% rate as set by the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter. Our cost of money (the broker call rate) is now 20%. This means we are losing money at an annual rate of $54,000. Since we normally charge 1% above our cost of money for accepting the risk of these loans and administering them we are actually losing money at an annual rate of $81,000.

It is not the desire of any legitimate lender to take advantage of the borrower; however neither should the law allow the borrower to take advantage of the lender. In this situation the lender has two alternatives: 1) to continue to carry the loans and incur the loss, or 2) to call the loans and drive Alaska residents outside to do their business.

To correct the current situation two suggestions are offered:

1. Change the existing percentage point spread between the Federal Reserve rate and the usury limit to an eight percentage point spread.
2. Change the language in the existing law that now allows the rate to change only once a quarter and allow the rate to "float". This would mean that when the Federal rate went up so would the usury rate and when the Federal rate goes down so would the usury rate and that the maximum allowed by law would never be more than eight points above the effective annual Federal Reserve rate.

Such a change would allow the usury limit to move or "float" in a constant relationship to the rate charged member banks by the 12th Federal Reserve District.

For suggestions as to specific language changes to SENATE BILL NO. 19 please review the attachment.

1. On line 12 delete the word [FIVE] and insert the word eight.

2. On line 12 insert the word effective between the words "the" and "annual".

3. On line 13 insert a period (.) after the word District.

4. At the end of line 13, through lines 14 and 15 and ending on line 16, delete the words [ON THE DAY ON WHICH THE CONTRACT OR LOAN COMMITMENT IS MADE.]

Note: The objective of suggestions 2, 3, and 4 is to eliminate the possible tying of the usury limit on open lines of credit to some contract date that might have established the open line of credit months or even years earlier.

FOSTER & MARSHALL INC.

INVESTMENT BANKERS AND BROKERS

[illegible] FRANKLIN STREET

[illegible] ALASKA 99801

[illegible]

OFFICES

IN THE PRINCIPAL CITIES OF THE

PACIFIC NORTHWEST AND ALASKA

February 9, 1981

Written Testimony: SENATE BILL NO. 19

Submitted By: Fred K. Erken
First Vice President
Foster & Marshall, Inc.

In the testimony I submitted to you a week ago and in the discussion which followed it was mentioned that the particular problem our industry faces might be best addressed in separate legislation or a separate section of current legislation. Attached is a copy of legislation currently under consideration in the State of Washington which addresses my industry's particular problem.

HOUSE BILL NO. [illegible]

Introduced by Representatives [illegible]

Read first time [illegible], and referred to Committee on FINANCIAL INSTITUTIONS & INSURANCE.

AN ACT Relating to commercial lending; and adding a new section to chapter 19.52 RCW.

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

NEW SECTION. Section 1. There is added to chapter 19.52 RCW a new section to read as follows:

The interest charged by any broker-dealer registered under chapter 21.20 RCW and under the federal securities and exchange act of 1934, as amended, shall not be subject to the limitations imposed by this chapter if the underlying loans (1) may be paid in full at the option of the borrower and (2) are subject to the credit regulations of the board of governors of the federal reserve system, or its successor. Regarding any such loan, a borrower may not plead the defense of usury nor maintain any action thereon or therefor.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811

NOTICE OF MAXIMUM LEGAL RATE OF INTEREST
EFFECTIVE JANUARY 1, 1981 THROUGH MARCH 31, 1981

In compliance with AS 45.45.010(d), the Commissioner of the department gives public notice that the Federal Reserve discount rate prevailing in the 12th Federal Reserve District on the 25th day of the month preceding the commencement of the calendar quarter beginning January 1, 1980 was 13 percent.

AS 45.45.010(b) provides that:

> (b) No interest may be charged by express agreement of the parties in contract or loan commitment dated after June 24, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $100,000 is exempt from the limitation of this subsection.

THEREFORE, effective January 1, 1981, the maximum legal rate of interest which may be charged by express agreement of the parties in a contract or loan commitment of $100,000 or less is 18 percent.

On March 31, 1980, President Carter signed into law H.R. 4986, a bill which makes a number of changes affecting banks and financial institutions and state usury laws. In particular, that bill affects the provision of the Alaska usury statute, AS 45.45.010(b) as follows:

1. The ceiling on interest rates allowable on certain home mortgage loans including mobile homes loans, is preempted starting April 1, 1980, and there is no ceiling set by federal law.

2. The ceiling on interest rates allowable on business and agriculture loans over $1,000 is preempted if that ceiling falls below the ceiling established by the federal law (this provision applies for a period of three years ending at the close of April 1, 1983). Consult the current discount rate from the Federal Reserve Bank in Seattle to determine if preemption has occurred.

Regulations for federally-related mortgage loans have been adopted. See 12 Code Federal Regulations Part 590. For further information relating to the federal legislation, please contact the Alaska Congressional Delegation and refer to Public Laws 96-221 and 96-399.

Julius A. Brecht

Julius A. Brecht
Director

DB:HJ4LH

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

March 23, 1981

COMMITTEE MEETING MINUTES

The meeting was called to order at 3:09 P.M. by Chairman Mulcahy. Those present were: Senators Hohman, Ziegler, Fahrenkamp and Rodey.

First on the agenda was SB 200 "An Act relating to the fisheries business tax (AS 43.75.015); and providing for an effective date."

Senator Dick Eliason addressed SB 200, explaining the background of the fisheries business tax, and that the tax is retroactive for two years. (tape reading 010 to 272)

Mr. Gary Jenkins, Director of the Audit Division, Department of Revenue testified on the problems with administrating the bill; fish buyers are not always identifiable. Suggested language- salmon must be sold to a licensed processor; easier to administer. (tape reading 275 to 458)

Mr. Lewis Schnaper representing the Alaska Trollers Association testified in support of SB 200, stating that the class of fishermen who have made substantial investments, 50 to 75 trollers with freezing capacities would be impacted; less economical to freeze but the quality speaks to the need. The Canadians recognize the value of sea frozen salmon, and it is the most effective use of a fishermans fuel.

Senator Pat Rodey offered proposed language; frozen salmon must be transferred to a licensed buyer.

Chairman Mulcahy moved we accept Senator Rodeys amendment and move SB 200 as amended. (tape reading 570)

Next on the agenda was SB 81 "An Act increasing the number of directors of the Alaska Housing Finance Corporation."

This bill was brought up for discussion; Senator Ziegler questioned the need for the bill, Senator Mulcahy offered background on the bill, and it was decided to hold the bill for later. (tape reading 580 to 630)

Next on the agenda was SB 85 "An Act permitting a minor under the age of 18 to be employed in an occupation in which a strike or lockout is in progress."

Chairman Mulcahy offer background testimony, and addressed the constitutionality of the rights of minors to picket. Chairman Mulcahy proposed we move the bill and Senator Hohman recommended the bill move from Committee. (tape reading 634 to 653)

Next on the agenda was SB 282 "An Act relating to the legal rate of interest."

Mr. Fred Koken, First Vice-President of Foster and Marshall testified on SB 282, elaborating on the problems with SB 19 usury rates, and how the bill did not reflect the needs of his industry. The policy on interest at Foster & Marshall is dictated by competition in the industry. (tape reading 678 to 830)

Committee ~~action on~~ SB 282 moved ~~"Do Pass"~~

Next on the agenda was SB 172 "An Act relating to Unifor Commercial Code filings; and providing for an effective date."

There was no testimony and it was recommended that we hold the bill for further work. (tape reading 660 to 669)

The meeting was adjourned by Chairman Mulcahy at 3:50 P.M.

COMMITTEE REPORT

SENATE

FURTHER: Finance

3/13/81

Date: 23 MARCH 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 282

legal rate of interest

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Marks

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Marks

CHAIRMAN

Sec. 45.45.010. Legal rate of interest.

(a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment dated after June 4, 1976 which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $100,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Notice of the annual rate charged member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1 — 3 ch 84 SLA 1973; am §§ 1 — 4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980)

Cross references. — As to rate of interest under Alaska Small Loans Act, see AS 06.20. As to premium finance act, see AS 06.40.120. As to credit union loans, see AS 06.45.060. As to judgments, see AS 09.30.070. As to commercial fishing loans, see AS 16.10.320(a). As to housing development revolving loan fund, see AS 18.54.060. As to Alaska housing finance, see AS 18.56.098. As to insurance policy loans, see AS 21.45.080. As to veterans' loans, see AS 26.15.040. As to residential care facility loans, see AS 44.33.350(b). As to temperate social activities facilities loans, see AS 44.47.340(e). As to retail installment sales, see AS 45.10.120. As to collection of advance interest, see AS 45.45.080. As to Alternative Technology and Power Resource loans, see AS 88.030(e). As to tourism loans, see AS 45.90.030(c). As to small business loans, see AS 45.95.020. As to historic district loans, see AS 45.98.040(4).

Effect of amendments. — The first 1976 amendment substituted "five percentage points" for "four percentage points" in the first sentence of subsection (b).

The second 1976 amendment rewrote subsection (a).

The 1980 amendment substituted "10.5" for "eight" near the beginning of subsection (a), and deleted the former second sentence of subsection (a), which read: "The rate of interest in the state is six per cent a year and no more on (1)

department or other public body for which a charge or fee may or may not be made or collected for the reproduced recording. (§ 1 ch 134 SLA 1974; am § 1 ch 193 SLA 1975)

Editor's Note. — This section derives from AS 45.51.010 and AS 45.51.020 and was renumbered by the revisor of statutes pursuant to AS 01.05.031.

Chapter 55. Alaska Securities Act of 1959.

Article
1. Fraudulent and Other Prohibited Practices (§§ 45.55.010 — 45.55.020)
2. Registration of Broker-Dealers, Agents, and Investment Advisers (§§ 45.55.030 — 45.55.060)
3. Registration of Securities (§§ 45.55.070 — 45.55.120)
4. General Provisions (§§ 45.55.130 — 45.55.270)

Article 1. Fraudulent and Other Prohibited Practices.

Section
10. Sales and purchases
20. Advisory activities

Sec. 45.55.010. Sales and purchases. It is unlawful for a person, in connection with the offer, sale, or purchase of a security, directly or indirectly, to

(1) employ a device, scheme, or artifice to defraud;

(2) make an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or

(3) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon a person. (§ 101 ch 198 SLA 1959; am § 1 ch 86 SLA 1972)

Cited in American Building & Loan Ass'n, Inc. v. State, Sup. Ct. Op. No. 112 (File No. 149), 376 P.2d 370 (1962); Demee v. Dean Witter & Co., 476 F. Supp. 275 (D. Alas. 1979).

Am. Jur. 2d, ALR and C.J.S. references. — 69 Am. Jur. 2d, Securities Regulation — Federal, § 1 et seq.; 69 Am. Jur. 2d, Securities Regulation — State, § 1 et seq.

Blue Sky Laws, 87 ALR 42.

Violation of Blue Sky Laws affecting liability of purchaser of stock as stockholder, 87 ALR 121.

Federal Security Act as superseding state acts, 146 ALR 1252.

What constitutes stocks, securities or investment contracts within contemplation of state and federal statutes regulating sale of securities, 163 ALR 1050.

Applicability of Blue Sky Laws to pre-incorporation subscriptions, 50 ALR2d 1103.

Sale of memberships in club or similar organization as sale of securities within provisions of securities acts, 87 ALR2d 1140.

What constitutes an "investment contract" within the meaning of state Blue Sky Laws, 47 ALR3d 1376.

Effect, as between stockbroker and customer, of broker's mistaken sale of stock or other security other than that intended by customer, 48 ALR3d 513.

Duty to disclose material facts to stock purchaser, 80 ALR3d 13.

53 C.J.S. Licenses §§ 72-78.

Sec. 45.55.020. Advisory activities. (a) It is unlawful for a person who receives a consideration from another person primarily for advising the other person as to the value of securities or their purchase or sale, whether through the issuance of analyses or reports or otherwise, to

(1) employ a device, scheme, or artifice to defraud the other person; or

(2) engage in an act, practice, or course of business which operates or would operate as a fraud or deceit upon the other person.

(b) It is unlawful for an investment adviser to enter into, extend, or renew an investment advisory contract unless it provides in writing that

(1) the investment adviser shall not be compensated on the basis of a share of capital gains upon or capital appreciation of the funds or portion of the funds of the client;

(2) no assignment of the contract may be made by the investment adviser without the consent of the other party to the contract; and

(3) the investment adviser, if a partnership, shall notify the other party to the contract of a change in the membership of the partnership within a reasonable time after the change.

(c) The provisions of (b)(1) of this section do not prohibit an investment advisory contract which provides for compensation based upon the total value of a fund averaged over a definite period, or as of definite dates or taken as of a definite date.

(d) "Assignment," as used in (b)(2) of this section, includes a direct or indirect transfer or hypothecation of an investment advisory contract by the assignor or of a controlling block of the assignor's outstanding voting securities by a security holder of the assignor; but, if the investment adviser is a partnership, no assignment of an investment advisory contract is considered to result from the death or withdrawal of a minority of the members of the investment adviser having only a minority interest in the business of the investment adviser, or from the admission to the investment adviser of one or more members who, after admission, will be only a minority of the members and will have only a minority interest in the business.

(e) It is unlawful for an investment adviser to take or have custody of the securities or funds of a client if

(1) the administrator by rule prohibits custody, or

(2) in the absence of rule, the investment adviser fails to notify the administrator that he has or may have custody. (§ 102 ch 198 SLA 1959)

Article 2. Registration of Broker-Dealers, Agents, and Investment Advisers.

Section
30. Registration requirements
40. Registration procedure
50. Post-registration provisions
60. Denial, revocation, suspension, cancellation, and withdrawal of registration

Sec. 45.55.030. Registration requirements. (a) It is unlawful for a person to transact business in this state as a broker-dealer or agent unless he is registered under this chapter.

(b) It is unlawful for a broker-dealer or issuer to employ an agent unless the agent is registered. The registration of an agent is not effective during a period when he is not associated with a particular broker-dealer registered under this chapter or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the administrator.

(c) It is unlawful for any person to transact business in this state as an investment adviser unless (1) he is registered as an investment adviser under this chapter; (2) he is registered as a broker-dealer without the imposition of a condition under AS 45.55.060(d)(5); or (3) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(d) Every registration expires one year from its effective date unless renewed. The administrator may by rule or order prepare an initial schedule for registration renewals so that subsequent renewals of registrations effective on May 9, 1959, may be staggered by calendar months. For this purpose the administrator may by rule reduce the registration fee proportionately. (§ 201 ch 198 SLA 1959)

Sec. 45.55.040. Registration procedure. (a) A broker-dealer, agent, or investment adviser may obtain an initial or renewal registration by filing with the administrator an application together with a consent to service of process pursuant to AS 45.55.260(g). The application shall be accompanied by the fingerprints and a photograph of the applicant and shall contain whatever information the administrator by rule requires concerning such matters as

(1) the applicant's form and place of organization;

(2) the applicant's proposed method of doing business;

(3) the qualifications and business history of the applicant; in the case of a broker-dealer or investment adviser, the qualifications and business history of a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser; and, in the case of an investment adviser, the qualifications and business

(4) an injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

(5) the applicant's financial condition and history.

(b) The administrator may by regulation or order require an applicant for initial registration to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under AS 45.55.060, registration becomes effective at noon on the 30th day after an application is filed, except that registration becomes effective upon filing of the application by any of the persons subject to this chapter who were doing business in this state on May 9, 1959. The administrator may by regulation or order specify an earlier effective date, and he may by order defer the effective date until noon of the 30th day after the filing of an amendment.

(c) Every broker-dealer applicant for initial registration shall pay a registration fee of $125. Every agent applicant and investment adviser applicant for initial registration shall pay a registration fee of $50. Every broker-dealer applicant for annual renewal of registration shall pay an annual renewal fee of $75. Every agent applicant and investment adviser applicant for annual renewal of registration shall pay an annual renewal fee of $30.

(d) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. A broker-dealer may file a request to transfer from a previous broker-dealer an agent's unexpired portion of the registration if the provisions of AS 45.55.030(b) have been met. There is a filing fee of $10 for filing applications under this subsection.

(e) The administrator shall by regulation require of registered broker-dealers and investment advisers a minimum capital and a bond guaranteed by a corporate surety qualified to do business in this state.

(f) The administrator shall by regulation require registered broker-dealers, agents, and investment advisers to post surety bonds in amounts up to $10,000, and shall by regulation determine their conditions. An appropriate deposit of cash or securities shall be accepted in place of a bond so required. Every bond shall provide for suit on it by any person who has a cause of action under AS 45.55.220 and, if the administrator by rule or order requires, by any person who has a cause of action not arising under this chapter. Every bond shall provide that no suit may be maintained to enforce a liability on the bond unless brought within three years after the sale or other act upon which it is based. (§ 202 ch 198 SLA 1959; am § 1 ch 55 SLA 1972; am §§ 2 — 6 ch 86 SLA 1972; am § 6 ch 132 SLA 1977)

Effect of amendments. — The 1977 amendment, in subsection (b), deleted the last sentence, which read "Registration of a broker-dealer automatically constitutes registration of an agent who is a partner, officer, or director, or a person occupying a similar status or performing similar functions."

Sec. 45.55.050. Post-registration provisions. (a) Every registered broker-dealer and investment adviser shall make and keep the accounts, correspondence, memoranda, papers, books and other records which the administrator by rule prescribes. All records so required shall be preserved for three years unless the administrator by rule prescribes otherwise for particular types of records.

(b) Every registered broker-dealer and investment adviser shall file the financial reports which the administrator by rule prescribes.

(c) If the information contained in a document filed with the administrator is or becomes inaccurate or incomplete in a material respect, the registrant shall promptly file a correcting amendment unless notification of the correction is given under AS 45.55.030(b).

(d) All the records referred to in (a) of this section are subject to reasonable periodic, special, or other examinations by representatives of the administrator, inside or outside this state, as the administrator considers necessary or appropriate in the public interest or for the protection of investors. For the purpose of avoiding unnecessary duplication of examinations, the administrator, insofar as he considers it practicable in administering (d) of this section, may cooperate with the securities administrators of other states, the Securities and Exchange Commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934. (§ 203 ch 198 SLA 1959)

Sec. 45.55.060. Denial, revocation, suspension, cancellation, and withdrawal of registration. (a) The administrator may by order deny, suspend, or revoke a registration if he finds that the order is in the public interest and that the applicant or registrant or, in the case of a broker-dealer or investment adviser, a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser

(1) has filed an application for registration which as of its effective date, or as of a date after filing in the case of an order denying effectiveness, was incomplete in a material respect or contained a statement which was, in light of the circumstances under which it was made, false or misleading with respect to a material fact;

(2) has wilfully violated or wilfully failed to comply with a provision of this chapter or a rule or order under this chapter;

(3) has been convicted, within the past 10 years, of a misdemeanor involving a security or an aspect of the securities business, or a felony;

(5) is the subject of an order of the administrator denying, suspending, or revoking registration as a broker-dealer, agent, or investment adviser;

(6) is the subject of an order entered within the past five years by the securities administrator of another state or by the Securities and Exchange Commission denying or revoking registration as a broker-dealer, agent or investment adviser, or the substantial equivalent of those terms as defined in this chapter, or is the subject of an order of the Securities and Exchange Commission suspending or expelling him from a national securities exchange or national securities association registered under the Securities Exchange Act of 1934, or is the subject of a United State Post Office fraud order; but

(A) the administrator may not institute a revocation or suspension proceeding under this paragraph more than one year from the date of the order relied on, and

(B) he may not enter an order under this paragraph on the basis of an order under another state act unless that order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or unethical practices in the securities business;

(8) is insolvent, either in the sense that his liabilities exceed his assets or in the sense that he cannot meet his obligations as they mature; but the administrator may not enter an order against a broker-dealer or investment adviser under this clause without a finding of insolvency as to the broker-dealer or investment adviser; or

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business, except as otherwise provided in (d) of this section.

(b) The administrator may by order deny, suspend, or revoke any registration if he finds that the order is in the public interest and that the applicant or registrant

(1) has failed reasonably to supervise his agents if he is a broker-dealer or his employees if he is an investment adviser; or

(2) has failed to pay the proper filing fee; but the administrator may enter only a denial order under this clause, and he shall vacate the order when the deficiency is corrected.

(c) The administrator may not institute a suspension or revocation proceeding on the basis of a fact or transaction known to him when registration became effective unless the proceeding is instituted within the next 30 days.

(d) The following provisions govern the application of (a)(9) of this section:

(1) The administrator may not enter an order against a broker-dealer on the basis of the lack of qualification of a person other

(2) The administrator may not enter an order against an investment adviser on the basis of the lack of qualification of any person other than (A) the investment adviser himself if he is an individual or (B) another person who represents the investment adviser in doing any of the acts which make him an investment adviser.

(3) The administrator may not enter an order solely on the basis of lack of experience if the applicant or registrant is qualified by training or knowledge or both.

(4) The administrator shall consider that an agent who will work under the supervision of a registered broker-dealer need not have the same qualifications as a broker-dealer.

(5) The administrator shall consider that an investment adviser is not necessarily qualified solely on the basis of experience as a broker-dealer or agent. When he finds that an applicant for initial or renewal registration as a broker-dealer is not qualified as an investment adviser, he may by order condition the applicant's registration as a broker-dealer upon his not transacting business in this state as an investment adviser.

(6) The administrator may by rule provide for an examination, which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser in doing any of the acts which make him an investment adviser, provided that examinations required by (d)(6) of this section shall not be required of a registrant under this chapter who was doing business in this state and was a resident of this state on May 9, 1959.

(e) The administrator may by order summarily postpone or suspend registration pending final determination of a proceeding under this section. Upon the entry of the order, the administrator shall promptly notify the applicant or registrant, and the employer or prospective employer if the applicant or registrant is an agent, that it has been entered and of the reasons for it and that within 15 days after the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing, may modify or vacate the order or extend it until final determination.

(f) If the administrator finds that a registrant or applicant for registration no longer exists or has ceased to do business as a broker-dealer, agent or investment adviser, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator, or guardian, or cannot be located after reasonable search, the administrator may by order cancel the registration or application.

application to withdraw or within a shorter period of time as the administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a preceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at the time and upon the conditions as the administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the administrator may nevertheless institute a revocation or suspension proceeding under (a)(2) of this section within one year after withdrawal is effective and enter a revocation or suspension order as of the last date on which registration was effective.

(h) No order may be entered under any part of this section except the first sentence of (e) of this section without (1) appropriate prior notice to the applicant or registrant as well as the employer or prospective employer if the applicant or registrant is an agent, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law. To the extent the Administrative Procedure Act (AS 44.62) is not in conflict herewith, it applies to all procedures. (§ 204 ch 198 SLA 1959)

Article 3. Registration of Securities.

Section
70. Registration requirement
80. Registration by notification
90. Registration by coordination
100. Registration by qualification
110. Provisions applicable to registration generally
120. Denial, suspension, and revocation of registration

Sec. 45.55.070. Registration requirement. It is unlawful for a person to offer or sell a security in this state unless (1) it is registered under this chapter or (2) the security or transaction is exempted under AS 45.55.140. (§ 401 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961)

Seven per cent debentures offered in exchange for stock must be registered. — Seven per cent debentures of a corporation which are offered to stockholders of the same corporation in exchange for their stock must be registered, unless the debentures are otherwise exempted from the registration requirement of the act. 1961 Op. Att'y Gen., No. 15.

Application of registration requirements to conversion plans. — See 1961 Op. Att'y Gen., No. 15.

Sec. 45.55.080. Registration by notification. (a) The following securities may be registered by notification, whether or not they are also eligible for registration by coordination under AS 45.55.090:

(1) a security whose issuer and predecessors have been in continuous operation for at least five years if (A) there has been no default during

(or any predecessor) with a fixed maturity or a fixed interest or dividend provision, and (B) the issuer and predecessor during the past three fiscal years have had average net earnings, determined in accordance with generally accepted accounting practices, (i) which are applicable to all securities without a fixed maturity or a fixed interest or dividend provision outstanding at the date the registration statement is filed and equal at least five per cent of the amount of these outstanding securities (as measured by the maximum offering price or the market price on a day, selected by the registrant, within 30 days before the date of filing the registration statement, whichever is higher, or book value on a day, selected by the registrant, within 90 days of the date of filing the registration statement to the extent that there is neither a readily determinable market price nor a cash offering price), (ii) which, if the issuer and predecessors have not had any security of the type specified in (B) (i) of this paragraph outstanding for three full fiscal years, equal at least five per cent of the amount (as measured in (B) (i) of this paragraph) of all securities which will be outstanding if all the securities being offered or proposed to be offered (whether or not they are proposed to be registered or offered in this state) are issued;

(2) a security (other than a certificate of interest or participation in an oil, gas or mining title or lease or in payments out of production under the title or lease) registered for nonissuer distribution if (A) any security of the same class has ever been registered under this chapter, or (B) the security being registered was originally issued pursuant to an exemption under this chapter.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in AS 45.55.110(c) and the consent to service of process required by AS 45.55.260(g):

(1) a statement demonstrating eligibility for registration by notification;

(2) with respect to the issuer and any significant subsidiary, its name, address, and form of organization; the state or foreign jurisdiction; the date of its organization; and the general character and location of its business;

(3) with respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution, his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; and a statement of his reasons for making the offering;

(4) a description of the security being registered;

(5) the information and documents specified in AS 45.55.100(b)(8), (10), and (12); and

(6) in the case of registration under (a)(2) of this section which does

of the issuer as of a date within four months before the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and predecessor's existence if less than two years.

(c) If no stop order is in effect and no proceeding is pending under AS 45.55.120, a registration statement under this section automatically becomes effective at three o'clock Pacific Standard Time in the afternoon of the second full business day after the filing of the registration statement or the last amendment, or at an earlier time as the administrator determines. (§ 402 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961)

Sec. 45.55.090. Registration by coordination. (a) A security for which a registration statement has been filed under the Securities Act of 1933 or any security for which filing has been made under Regulations A, E, and F pursuant to subsection (b) of § 3 of the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in AS 45.55.110(c) and the consent to service of process required by AS 45.55.260(g):

(1) three copies of the latest form of prospectus filed under the Securities Act of 1933;

(2) if the administrator requires, copies of the articles of incorporation and bylaws (or their substantial equivalent) currently in effect, a copy of an agreement with or among underwriters, a copy of an indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) if the administrator requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(4) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order is in effect and no proceeding is pending under AS 45.55.120; (2) the registration statement has been on file with the administrator for at least 10 days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and

period which the administrator permits and the offering is made within those limitations.

(d) The registrant shall promptly notify the administrator by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the administrator may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with (c) and (d) of this section if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of (c) and (d) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The administrator may by rule or otherwise waive either or both of the conditions specified in (c)(2) and (3) of this section. If the federal registration statement becomes effective before all the conditions in (c) and (d) of this section are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly advise the registrant by telephone or telegram at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under AS 45.55.120; but this advice by the administrator does not preclude the institution of the proceeding at any time. (§ 403 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961; am § 2 ch 55 SLA 1972; am § 7 ch 86 SLA 1972)

Sec. 45.55.100. Registration by qualification. (a) A security may be registered by qualification.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in AS 45.55.110(c) and the consent to service of process required by AS 45.55.260(g):

(1) with respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and

(2) with respect to every director and officer of the issuer, or person occupying a similar status or performing similar functions: his name, address, and principal occupation for the past five years; the amount of securities of the issuer held by him as of a specified date within 30 days of the filing of the registration statement; the amount of the securities covered by the registration statement to which he has indicated his intention to subscribe; and a description of a material interest in a material transaction with the issuer or a significant subsidiary effected within the past three years or proposed to be effected;

(3) with respect to persons covered by (2) of this subsection, the remuneration paid during the past 12 months and estimated to be paid during the next 12 months, directly or indirectly, by the issuer, together with all predecessors, parents, subsidiaries, and affiliates, to all those persons in the aggregate;

(4) with respect to a person owning of record, or beneficiary if known, 10 per cent or more of the outstanding shares of any class of equity security of the issuer: the information specified in (2) of this subsection other than his occupation;

(5) with respect to every promotor if the issuer was organized within the past three years: the information specified in (2) of this subsection, an amount paid to him within that period or intended to be paid to him, and the consideration for the payment;

(6) with respect to a person on whose behalf a part of the offering is to be made in a nonissuer distribution: his name and address; the amount of securities of the issuer held by him as of the date of the filing of the registration statement; a description of a material interest in a material transaction with the issuer or a significant subsidiary effected within the past three years or proposed to be effected; and a statement of his reasons for making the offering;

(7) the capitalization and long-term debt, on both a current and a pro forma basis, of the issuer and a significant subsidiary, including a description of each security outstanding or being registered or otherwise offered, and a statement of the amount and kind of consideration (whether in the form of cash, physical assets, services, patents, goodwill, or anything else) for which the issuer or a subsidiary has issued any of its securities within the past two years or is obligated to issue any of its securities;

(8) the kind and amount of securities to be offered; the proposed offering price or the method by which it is to be computed; any variation from this at which a proportion of the offering is to be made to a person or class of persons other than the underwriters, with a specification of that person or class; the basis upon which the offering is to be made if otherwise than for cash; the estimated aggregate underwriting and selling discounts or commissions and finders' fees

value to accrue to the underwriters or finders in connection with the offering) or, if the selling discounts or commissions are variable, the basis of determining them and their maximum and minimum amounts; the estimated amounts of other selling expenses, including legal, engineering, and accounting charges; the name and address of every underwriter and every recipient of a finder's fee; a copy of any underwriting or selling-group agreement under which the distribution is to be made, or the proposed form of the agreement whose terms have not yet been determined; and a description of the plan of distribution of any securities which are to be offered other than through an underwriter;

(9) the estimated cash proceeds to be received by the issuer from the offering; the purposes for which the proceeds are to be used by the issuer; the amount to be used for each purpose; the order or priority in which the proceeds will be used for the purposes stated; the amounts of any funds to be raised from other sources to achieve the purposes stated; the sources of the funds; and, if a part of the proceeds is to be used to acquire property (including goodwill) other than in the ordinary course of business, the names and addresses of the vendors, the purchase price, the names of persons who have received commissions in connection with the acquisition, and the amounts of the commissions and any other expense in connection with the acquisition (including the cost of borrowing money to finance the acquisition);

(10) a description of a stock option or other security options outstanding, or to be created in connection with the offering, together with the amount of the options held or to be held by every person required to be named in (2), (4), (5), (6), or (8) of this subsection and by a person who holds or will hold 10 per cent or more in the aggregate of the options;

(11) the dates of, parties to, and general effect concisely stated of, every management or other material contract made or to be made otherwise than in the ordinary course of business if it is to be performed in whole or in part at or after the filing of the registration statement or was made within the past two years, together with a copy of every such contract; and a description of any pending litigation or proceeding to which the issuer is a party and which materially affects its business or assets (including the litigation or proceeding known to be contemplated by governmental authorities);

(12) a copy of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature intended as of the effective date, to be used in connection with the offering;

(13) a specimen or copy of the security being registered; a copy of the issuer's articles of incorporation and bylaws, or their substantial

(14) a signed or conformed copy of an opinion of counsel as to the legality of the security being registered (with an English translation if it is in a foreign language) which states whether the security when sold will be legally issued, fully paid, and nonassessable, and, if a debt security, a binding obligation of the issuer;

(15) the written consent of an accountant, engineer, appraiser, or other person whose profession gives authority to a statement made by him, if the person is named as having prepared or certified a report or valuation (other than a public and official document or statement) which is used in connection with the registration statement;

(16) a balance sheet of the issuer as of a date within four months before the filing of the registration statement; a profit and loss statement and analysis or surplus for each of the three fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and a predecessor's existence if less than three years; and, if any part of the proceeds of the offering is to be applied to the purchase of a business, the same financial statements which would be required if that business were the registrant; and

(17) the additional information which the administrator requires by rule or order.

(c) A registration statement under this section becomes effective when the administrator so orders.

(d) The administrator may by rule or order require as a condition of registration under this section that a prospectus containing a designated part of the information specified in (b) of this section be sent or given to each person to whom an offer is made before or concurrently with whichever of the following occurs first:

(1) the first written offer made to him (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose behalf the offering is being made, or by an underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by him as a participant in the distribution;

(2) the confirmation of a sale made by or for the account of any such person;

(3) payment under the sale; or

(4) delivery of the security under the sale. (§ 404 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961)

Sec. 45.55.110. Provisions applicable to registration generally. (a) A registration statement may be filed by the issuer, another person on whose behalf the offering is to be made, or a registered broker-dealer.

(b) Every person filing a registration statement shall pay a filing fee of $50 and a registration fee of one-tenth of one per cent of the

be less than $50 or more than $1,500. When a registration statement is withdrawn before the effective date or a pre-effective stop order is entered under AS 45.55.120, the administrator shall retain the $50 filing fee.

(c) Every registration statement shall specify (1) the amount of securities to be offered in this state; (2) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (3) an adverse order, judgment, or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

(d) A document filed under this chapter within five years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

(e) The administrator may by rule or otherwise permit the omission of an item of information or document from a registration statement.

(f) In the case of a nonissuer distribution, information may not be required under AS 45.55.100 or (j) of this section unless it is known to the person filing the registration statement or to the persons on whose behalf the distribution is to be made, or can be furnished by them without unreasonable effort or expense.

(g) The administrator may by rule or order require as a condition of registration by qualification or coordination that a security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to a person for a consideration other than cash, be deposited in escrow, and that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The administrator may by rule or order determine the conditions of an escrow or impounding required in this subsection but he may not reject a depository solely because of location in another state.

(h) The administrator may by rule or order require as a condition of registration that a security registered by qualification or coordination be sold only on a specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the administrator or preserved for any period up to three years specified in the rule or order.

(i) Every registration statement is effective for one year from its effective date, or any longer period during which the security is being offered or distributed in a nonexempted transaction by or for the account of the issuer or other person on whose behalf the offering is

in effect under AS 45.55.120. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction if the registration statement is effective and between the thirtieth day after the entry of a stop order suspending or revoking the effectiveness of the registration statement under AS 45.55.120 (if the registration statement did not relate in whole or in part to a nonissuer distribution) and one year from the effective date of the registration statement. A registration statement may not be with withdrawn for one year from its effective date if any securities of the same class are outstanding. A registration statement may be withdrawn otherwise only in the discretion of the administrator.

(j) So long as a registration statement is effective, the administrator may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement and to disclose the progress of the offering.

(k) A registration statement relating to a security issued by a face-amount certificate company or a redeemable security issued by an open-end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. An amendment becomes effective when the administrator so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in (b) of this section, with respect to the additional securities proposed to be offered. (§ 405 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961; am § 1 ch 44 SLA 1962; am § 8 ch 86 SLA 1972)

Sec. 45.55.120. Denial, suspension, and revocation of registration. (a) The administrator may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, a registration statement if he finds that the order is in the public interest and that

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under AS 45.55.110(k) as of its effective date, or any report under AS 45.55.110(j) is incomplete in a material respect or contains a statement which was, in the light of the circumstances under which it was made, false or misleading with respect to a material fact;

(2) a provision of this chapter or a rule, order, or condition lawfully imposed under this chapter has been wilfully violated, in connection with the offering, by (A) the person filing the registration statement, (B) the issuer, a partner, officer, or director of the issuer, a person

(3) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction under another federal or state act applicable to the offering; but (A) the administrator may not institute a proceeding against an effective registration statement under this paragraph more than one year from the date of the order or injunction relied on, and (B) he may not enter an order under this paragraph on the basis of an order or injunction entered under another state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) the offering has been or would be made with unreasonable amounts of underwriters' and sellers' discounts, commissions, or other compensation, or promoters' profits or participation, or unreasonable amounts of kinds of options;

(7) when a security is sought to be registered by notification, it is not eligible for that registration;

(8) when a security is sought to be registered by coordination, there has been a failure to comply with the undertaking required by AS 45.55.090(b)(4); or

(9) the applicant or registrant has failed to pay the proper filing fee; but the administrator may enter only a denial order under this paragraph and he shall vacate the order when the deficiency is corrected.

(b) The administrator may not institute a stop-order proceeding against an effective registration statement on the basis of a fact or transaction known to him when the registration statement became effective unless the proceeding is instituted within the next 30 days.

(c) The administrator may by order summarily postpone or suspend the effectiveness of the registration statement pending final determination of a proceeding under this section. Upon the entry of the order, the administrator shall promptly notify each person specified in (d) of this section that it has been entered and of the reasons for it and that within 15 days after the receipt of a written request the matter will be set for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice and opportunity for hearing to each person specified in (d) of this section, may modify or vacate the order or extend it until final determination.

whose behalf the securities are to be or have been offered, (2) opportunity for hearing, and (3) written findings of fact and conclusions of law.

(e) The administrator may vacate or modify a stop order if he finds that the conditions which prompted entry have changed or that it is otherwise in the public interest to do so. (§ 406 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961; am § 3 ch 55 SLA 1972

Article 4. General Provisions.

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Sec. 45.55.130. Definitions. In this chapter unless the context otherwise requires:

(1) "administrator" means the commissioner of commerce and economic development or his designee;

(2) "agent" means an individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchase or sale of securities; a partner, officer, or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if he otherwise comes within this definition; "agent" does not include an individual who represents an issuer in (A) effecting transactions in a security exempted by AS 45.55.140(1), (2), (3), (4), or (5), (B) effecting transactions exempted by AS 45.55.140(b), or (C) effecting transactions with existing employees, partners, or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state;

(3) "broker-dealer" means a person engaged in the business of effecting transactions in securities for the account of others or for his own account; "broker-dealer" does not include (A) an agent, (B) an issuer, (C) a bank, savings institution, or trust company, (D) a person who has no place of business in this state if he effects transactions in this state exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, or (iii) banks

1940, pension or profit sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (E) a person who has no place of business in this state if during a period of 12 consecutive months he does not direct more than 15 offers to sell or buy into this state in any manner to persons other than those specified in (3)(D) of this section whether or not the offeror or any offeree is then present in this state;

(4) "fraud," "deceit," and "defraud" are not limited to common-law deceit;

(5) "guaranteed" means guaranteed as to payment of principal, interest, or dividends;

(6) "investment adviser" means a person who, for compensation, engages in the business of advising others, either directly or through publications or writings, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates, analyzes or reports concerning securities; "investment adviser" does not include (A) a bank, savings institution, or trust company; (B) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of his profession; (C) a broker-dealer whose performance of these services is solely incidental to the conduct of his business as a broker-dealer and who receives no special compensation for them; (D) a publisher of a bona fide newspaper, news magazine, or business or financial publication of general, regular, and paid circulation; (E) a person whose advice, analyses, or reports relate only to securities exempted by AS 45.55.140(a)(1); (F) a person who has no place of business in this state if (i) his only clients in this state are other investment advisers, broker-dealers, banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, pension or profit-sharing trusts, or other financial institutions or institutional buyers, whether acting for themselves or as trustees, or (ii) during a period of 12 consecutive months he does not direct business communications into this state in any manner to more than five clients other than those specified in (F)(i) of this paragraph, whether or not he or any of the persons to whom the communications are directed is then present in this state; or (G) other persons not within the intent of this paragraph whom the administrator designates by rule or order;

(7) "issuer" means a person who issues or proposes to issue any security, except that (A) with respect to certificates of deposit, voting-trust certificates, or collateral-trust certificates, or with respect to certificates of interest or shares in an unincorporated investment

the duties of depositor or manager under the provisions of the trust or other agreement or instrument under which the security is issued; and (B) Repealed by § 2 ch 56 SLA 1978;

(8) "nonissuer" means not directly or indirectly for the benefit of the issuer;

(9) "person" means an individual, a corporation, a partnership, an association, a joint-stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, or a political subdivision of a government;

(10) "sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value; "offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value; a security given or delivered with, or as a bonus on account of, a purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value; a purported gift of assessable stock is considered to involve an offer and sale; every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security;

(11) "Securities Act of 1933," "Securities Exchange Act of 1934," "Public Utility Holding Company Act of 1935," and "Investment Company Act of 1940" mean the federal statutes of those names as amended after May 9, 1959;

(12) "security" means a note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit-sharing agreement; collateral-trust certificates; preorganization certificate or subscription; transferable share; investment contract; voting-trust certificate; certificate of deposit for a security; a certificate of interest or participation in an oil, gas, or mining title or lease or in payments out of production under the title or lease or in any sale of or indenture or bond or contract for the conveyance of land or any interest in land; an option on a contract for the future delivery of agricultural or mineral commodities or any other commodity offered or sold to the public and not regulated by the Commodity Futures Trading Commission; however, the contract or option is not subject to the provisions of AS 45.55.070 if it is sold or purchased on the floor of a bona fide exchange or board of trade and offered or sold to the public by a broker-dealer or agent registered under this chapter; investment of money or money's worth including goods furnished or services performed in the risk capital of a venture with the expectation of some

interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing; "security" does not include an insurance or endowment policy or annuity contract under which an insurance company promises to pay a fixed or variable sum of money either in a lump sum or periodically for life or for some other specified period;

(13) "state" means any state, territory, or possession of the United States, the District of Columbia, and Puerto Rico. (§ 301 ch 198 SLA 1959; am §§ 1 and 2 ch 105 SLA 1961; am § 9 ch 5 SLA 1966; am §§ 9, 10 ch 86 SLA 1972; am § 1 ch 217 SLA 1975; am §§ 14, 108 ch 218 SLA 1976; am § 2 ch 56 SLA 1978; am § 2 ch 69 SLA 1980)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (1), and "Commodity Futures Trading Commission" for "Commodity Exchange Authority of the United States Department of Agriculture" near the middle of paragraph (12).

The 1978 amendment, in paragraph (7), repealed item (B), which read, "with respect to certificates of interest or participation in oil, gas, or mining titles or leases or in payments out of production under these titles or leases, there is not considered to be any 'issuer'."

The 1980 amendment inserted "or variable" near the end of paragraph (12).

Seven per cent debentures offered in exchange for stock must be registered. — See same catchline in note to AS 45.55.070.

For analysis of securities law of Alaska and its effect on corporate transactions, see 1961 Op. Atty. Gen., No. 15.

ALR references. — Who is "dealer" under state securities acts exempting sales by owners other than issuers not made in course of successive transactions, and the like, 6 ALR3d 1425.

What constitutes "public" or "private" offering within meaning of state securities regulation, 84 ALR3d 1009.

Sec. 45.55.138. Application to Alaska Native Claims Settlement Act corporations. The initial issue of stock of a corporation organized under Alaska law pursuant to the Alaska Native Claims Settlement Act (P.L. 92-203; 85 Stat. 688; 43 U.S.C. 1601 et seq.) is not a sale of a security under AS 45.55.070 and AS 45.55.130(10). (§ 6 ch 70 SLA 1972)

Editor's note. — Section 1, ch. 70, SLA 1972, provides: "Purpose. It is the purpose of this Act to implement the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) by amending state law to resolve those ambiguities, conflicts and problems directly or impliedly created by the enactment by Congress of the Alaska Native Claims Settlement Act. It is also the purpose of this Act to complement through state policy, in a reasonable and fair manner, the federal policy expressed provision of this Act or AS 10.05 or 10.20 and a provision of the Alaska Native Claims Settlement Act (P.L. 92-203, 85 Stat. 688, 43 U.S.C. 1601 et seq.) or a provision in the articles of incorporation or bylaws required by the U.S. Secretary of the Interior under sec. 7(e) of the federal Act, the federal Act or the required provision in the articles or bylaws prevails with regard to a corporation organized under Alaska law pursuant to the federal Act. However, nothing in this section or elsewhere in this Act deprives a Alaska law pursuant to the federal Act. To the extent of an inconsistency between a provision of this Act and a provision of AS 10.05 or 10.20, this Act prevails with regard to a corporation organized under Alaska law pursuant to the federal Act."

Sec. 45.55.139. Reports of corporations. A copy of all annual reports, proxies, consents or authorizations, proxy statements and other materials relating to proxy solicitations distributed, published or made available by any person to at least 30 Alaska resident shareholders of a corporation which has total assets exceeding $1,000,000 and a class of equity security held of record by 500 or more persons and which is exempted from the registration requirements of AS 45.55.070 by AS 45.55.138, shall be filed with the administrator concurrently with its distribution to shareholders. (§ 1 ch 58 SLA 1977)

For case construing common law prohibition of materially false and misleading statements in proxy solicitations, see Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from AS 45.55.070:

(1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;

(2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

(4) a commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or a guarantee of the paper or of the renewal, if the commercial paper is of the type eligible for discount by a federal reserve bank;

(5) an investment contract issued in connection with an employee's stock purchase, savings, pension, profit-sharing, or similar benefit plan

(6) a security issued by and representing an interest in or a debt of, or guaranteed by, a federal savings and loan association, or a building and loan or similar association organized under the laws of a state and authorized to do business in this state;

(7) a security issued by and representing an interest in or a debt of, or guaranteed by, an insurance company organized under the laws of a state and authorized to do business in this state; but this exemption does not apply to an annuity contract, investment contract, or similar security under which the promised payments are not fixed in dollars but are substantially dependent upon the investment results of a segregated fund or account invested in securities; except that policies or annuity contracts of insurance companies admitted to do business in the state are not subject to this chapter;

(8) a security issued or guaranteed by a federal credit union or any credit union, industrial loan association, or similar association organized and supervised under the laws of this state;

(9) a security issued or guaranteed by a railroad, other common carrier, public utility, or holding company which is

(A) subject to the jurisdiction of the Interstate Commerce Commission;

(B) a registered holding company under the Public Utility Holding Company Act of 1935 or a subsidiary of the company within the meaning of that Act;

(C) regulated in respect of its rates and charges by a governmental authority of the United States or a state; or

(D) regulated in respect of the issuance or guarantee of the security by a governmental authority of the United States, a state, Canada, or a Canadian province;

(10) a security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, or the Pacific Coast Stock Exchange, or any other security of the same issuer which is of senior or substantially equal rank; a security called for by subscription rights or warrants so listed or approved; or a warrant or right to purchase or subscribe to any of the foregoing;

(11) a security issued by a person organized and operated not for private profit but exclusively for religious, educational, benevolent, charitable, fraternal, social, athletic, or reformatory purposes, or as a chamber of commerce or trade or professional association.

(b) The following transactions are exempted from AS 45.55.070:

(1) a transaction between the issuer or other person on whose behalf the offering is made and an underwriter, or among underwriters;

(2) a transaction in a bond or other evidence of indebtedness secured by a real or chattel mortgage or deed of trust, or by an agreement for

(3) a transaction by an executor, administrator, sheriff, marshal, receiver, trustee in bankruptcy, guardian, or conservator;

(4) an offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, pension or profit-sharing trust, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity;

(5) sales by an issuer

(A) to no more than 10 persons in this state other than those designated in (4) of this subsection during a period of 12 consecutive months whether or not the seller or any of the buyers is then present in this state, if

(i) no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective buyer in this state;

(ii) the total dollar amount invested during a period of 12 consecutive months does not exceed $100,000;

(iii) a legend is placed on the certificate or other document evidencing ownership of the security, stating that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from it;

(iv) offers are made without public solicitation or advertisement and

(v) the issuer files with the administrator a notice specifying the issuer, the security to be sold and the terms of the offer at least two days before any sales are made;

(B) to no more than 25 persons in this state other than those designated in (4) of this subsection during a period of 12 consecutive months whether or not the seller or any of the buyers is then present in this state, if

(i) the sales are made solely in this state;

(ii) before any sale, each prospective buyer is furnished access to the information that would be provided to a prospective buyer in a registration under AS 45.55.100 (which information shall be furnished to the administrator upon his request);

(iii) the total dollar amount invested during a period of 12 consecutive months does not exceed $500,000;

(iv) commissions or other remuneration meet the requirements of this chapter and are made only to persons registered under AS 45.55.040;

(v) a legend is placed on the certificate or other document evidencing ownership of the security, stating that the security is not registered under this chapter and cannot be resold without registration under this chapter or exemption from it;

(vi) the issuer obtains a signed agreement from the buyer acknowledging that he is buying for investment purposes and that the

(vii) offers are made without public solicitation or advertisement; and

(viii) the issuer files with the administrator a notice specifying the issuer, the security to be sold, and the terms of the offer at least two days before any sales are made;

(6) an offer or sale of a preorganization certificate or subscription if

(A) no commission or other remuneration is paid or given directly or indirectly for soliciting a prospective subscriber,

(B) the number of subscribers does not exceed 10, and

(C) no payment is made by any subscriber;

(7) a transaction under an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if

(A) no commission or other remuneration, other than a standby commission, is paid or given directly or indirectly for soliciting a security holder in this state, or

(B) the issuer first files a notice specifying the terms of the offer and the administrator does not by order disallow the exemption within the next five full business days;

(8) an offer (but not a sale) of a security for which registration statements have been filed under both this chapter and the Securities Act of 1933 if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending under either Act;

(9) an isolated nonissuer transaction, whether effected through a broker-dealer or not;

(10) a nonissuer distribution of an outstanding security if

(A) a recognized securities manual contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date within 18 months, and a profit and loss statement for either the fiscal year preceding that date or the most recent year of operations, or

(B) the security has a fixed maturity or a fixed interest or dividend provision and there has been no default during the current fiscal year or within the three preceding fiscal years, or during the existence of the issuer and any predecessors if less than three years, in the payment of principal, interest, or dividends on the security;

(11) a nonissuer transaction effected by or through a registered broker-dealer under an unsolicited order or offer to buy; however, the administrator may by rule require that the customer acknowledge upon a specified form that the sale was unsolicited, and that a signed copy of each form be preserved by the broker-dealer for a specified period;

(13) a transaction incident to a right of conversion or a statutory or judicially approved reclassification, recapitalization, reorganization, quasi-reorganization, stock split, reverse stock split, merger, consolidation or sale of assets, if

(A) no commission or other remuneration, other than a standby commission is paid or given directly or indirectly for soliciting a security holder in this state; and

(B) the issuer files a notice in the form specified by the administrator not less than 30 days before making the offer;

(14) a stock dividend, whether the corporation distributing the dividend is the issuer of the stock or not, if nothing of value is given by stockholders for the dividend other than the surrender of a right to a cash or property dividend when each stockholder may elect to take the dividend in cash or property or in stock;

(15) an act incident to a class vote by stockholders, under the certificate of incorporation or the applicable corporation statute, on a merger, consolidation, reclassification of securities or sale of securities of another corporation;

(16) the offer or sale by a registered broker-dealer, acting either as principal or agent, of securities previously sold and distributed to the public if

(A) the securities are sold at prices reasonably related to the current market price at the time of sale, and, if broker-dealer is acting as agent, the commission collected by the broker-dealer on account of the sale is not in excess of usual and customary commissions collected with respect to securities and transactions having comparable characteristics;

(B) the securities do not constitute the whole or a part of an unsold allotment to or subscription or participation by the broker-dealer as an underwriter of the securities or as a participant in the distribution of the securities by the issuer, by an underwriter or by a person or group of persons in substantial control of the issuer or of the outstanding securities of the class being distributed; and

(C) the securities have been lawfully sold and distributed in this state under this chapter;

(17) offers or sales of certificates of interest or participation in oil, gas, or mining rights, titles or leases, or in payments out of production under such rights, titles or leases, if the purchasers

(A) are or have been during the preceding two years engaged primarily in the business of exploring for, mining, producing, or refining oil, gas, or minerals; or

(B) have been found by the administrator upon written application to be substantially engaged in the business of exploring for, mining,

(c) In any proceeding under this chapter, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

(d) The administrator may by order deny or revoke an exemption specified in (a)(5), (7) or (11) of this section or in (b) of this section with respect to a specific security or transaction. The order may not be entered without appropriate prior notice to all interested parties, opportunity for hearing, and written findings of fact and conclusions of law, except that the administrator may by order summarily deny or revoke any of the specified exemptions pending final determination of a proceeding under this subsection. Upon the entry of a summary order, the administrator shall promptly notify all interested parties that it has been entered and of the reasons for it and that within 15 days of the receipt of a written request the matter will be set down for hearing. If no hearing is requested and none is ordered by the administrator, the order remains in effect until it is modified or vacated by the administrator. If a hearing is requested or ordered, the administrator, after notice of and opportunity for hearing to all interested persons, may modify or vacate the order or extend it until final determination.

(e) No order under (d) of this section may operate retroactively. No person may be considered to have violated AS 45.55.070 or 45.55.150 by reason of an offer or sale effected after the entry of an order under this subsection if he sustains the burden of proof that he did not know, and in the exercise of reasonable care could not have known of the order.

(f) The administrator shall by regulation prescribe a schedule of fees for examination or investigation of claimed exemption. (§ 302 ch 198 SLA 1959; am §§ 3 — 11 ch 105 SLA 1961; am § 1 ch 8 SLA 1966; am § 1 ch 25 SLA 1968; am §§ 11 — 13 ch 86 SLA 1972; am § 15 ch 218 SLA 1976; am §§ 1 — 3 ch 132 SLA 1977; am § 1 ch 56 SLA 1978; am § 50 ch 94 SLA 1980)

Effect of amendments. — The 1976 amendment inserted "not" preceding "by order disallow" in paragraph (7)(B) of subsection (b).

The 1977 amendment rewrote paragraph (5) of subsection (b), substituted "under this chapter" for "or any other state of the United States under this or any act regulating the sale of the securities" in paragraph (16)(C) of subsection (b), and substituted "(a)(5), (7) or (11)" for "(a)(5) or (7)" in the first sentence of subsection (d).

The 1978 amendment added paragraph (17) of subsection (b).

The 1980 amendment, in subparagraph (b)(5)(B)(viii), substituted "sold" for "offered" near the middle of the subparagraph, and substituted "any sales are" for "the offer is" near the end of the subparagraph.

Legislative history reports. — For report on ch. 8, SLA 1966, see House Journal (1966), p. 169. For report on ch. 132, SLA 1977 (SB 48), see 1977 Senate Journal, p. 190.

ALR references.—What securities are exempt from registration under § 402(a) of the Uniform Securities Act, 84 ALR3d 575.

Sec. 45.55.150. Filing of sales and advertising literature. The administrator may by rule or order require the filing of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser. (§ 303 ch 198 SLA 1959; am § 12 ch 105 SLA 1961; am § 14 ch 86 SLA 1972)

Sec. 45.55.160. Misleading filings. It is unlawful for a person, in a document filed with the administrator or in a proceeding under this chapter, to make or cause to be made an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. (§ 304 ch 198 SLA 1959; am § 15 ch 86 SLA 1972)

Materiality under common law. — Under Alaska common law, a misrepresentation is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. Subjective proof that one or more shareholders actually granted a proxy because of a falsehood is not required; only the objective standard encompassed in the definition of materiality need be met. Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

Proxy solicitations held materially false. — Where the misrepresented ability of a regional corporation to distribute money or land to shareholders on the large scale expressed in the solicitation would be likely to influence shareholders to grant proxies to the solicitor, the proxy solicitations were materially false as a matter of law. Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

ALR and C.J.S. references. — Attorney's preparation of legal document incident to sale of securities as rendering him liable under state securities regulations statutes, 62 ALR3d 252.

19 C.J.S. Corporations §§ 931, 1364; 53 C.J.S. Licenses § 78.

Sec. 45.55.170. Unlawful representations concerning registration or exemption. (a) Neither the fact that an application for registration under AS 45.55.030—45.55.060 or a registration statement under AS 45.55.070—45.55.120 is filed nor the fact that a person or security is effectively registered constitutes a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. Neither the fact of filing nor the fact that an exemption or exception is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a prospective purchaser, customer, or client any representation inconsistent with (a) of this section. (§ 305 ch 198 SLA 1959; am § 13 ch 105 SLA 1961)

Sec. 45.55.180. Administration of chapter. (a) The Department

(b) It is unlawful for the administrator or an officer or employee of the administrator to use for personal benefit information which is filed with or obtained by the administrator and which is not made public. No provision of this chapter authorizes the administrator or an officer or employee of the administrator to disclose the information except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the administrator or an officer or employee of the administrator. (§ 306 ch 198 SLA 1959)

Sec. 45.55.190. Investigations and subpoenas. (a) The administrator in his discretion may (1) make public or private investigations inside or outside this state as he considers necessary to determine whether a person has violated or is about to violate any provision of this chapter or a rule or order under this chapter, or to aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter, (2) require or permit a person to file a statement in writing, under oath or otherwise as the administrator determines, as to all the facts and circumstances concerning the matter to be investigated, and (3) publish information concerning any violation of this chapter or any rule or order under this chapter.

(b) For the purpose of an investigation or proceeding under this chapter, the administrator or an officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the administrator considers relevant or material to the inquiry.

(c) In case of contumacy by, or refusal to obey a subpoena issued to a person, the superior court, upon application by the administrator, may issue to the person an order requiring him to appear before the administrator, or the officer designated by him, to produce documentary evidence if so ordered or to give evidence touching the matter under investigation or in question. Failure to obey the order of the court may be punished by the court as a contempt of court.

(d) No person is excused from attending and testifying or from producing a document or record before the administrator, or in obedience to the subpoena of the administrator or officer designated by him, or in a proceeding instituted by the administrator, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual may be prosecuted or subjected to a penalty or forfeiture for or on

individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying. (§ 307 ch 198 SLA 1959)

Sec. 45.55.195. Reimbursement of expenses incident to examination. (a) An issuer, broker-dealer, agent, or investment adviser shall reimburse the administrator for actual travel expenses and per diem incurred in connection with an examination incident to a registration under this chapter.

(b) The administrator may by rule or order adopt a schedule of charges for annual examination fees of issuers, broker-dealers, agents and investment advisers.

(c) If an issuer, broker-dealer, agent or investment adviser fails to pay the fees and expenses provided for in this section, the fees and expenses shall be paid out of the funds of the administrator in the same manner as other disbursements made by the administrator. The amounts paid from the funds of the administrator are a lien upon all of the assets and property in this state of the issuer, broker-dealer, agent or investment adviser and the amount may be recovered by the attorney general on behalf of the state.

(d) Failure of the issuer, broker-dealer, agent or investment adviser to pay fees and expenses under this section is a wilful violation of this chapter and the violation falls within the provisions of AS 45.55.060, 45.55.120, 45.55.200 and 45.55.210. (§ 16 ch 86 SLA 1972)

Sec. 45.55.200. Orders and injunctions. Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of this chapter or rule or order under this chapter, he may

(1) if he considers it in the public interest or for the protection of investors, issue an order directing the person to cease and desist from continuing the act or practice, provided that reasonable notice of and an opportunity for a hearing shall first be given, except that the administrator may issue a temporary order pending the hearing which shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or rule or order under this chapter, and upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond. (§ 308 ch 198 SLA 1959; am § 1 ch 126 SLA 1968)

Sec. 45.55.210. Criminal penalties. (a) A person who wilfully

45.55.160 knowing the statement made to be false or misleading in a material respect or the omission to be misleading by any material respect, upon conviction, is punishable by a fine of not more than $5,000, or by imprisonment for not less than one year nor more than five years, or both. Upon conviction of an individual for a felony under this chapter, imprisonment for not less than one year is mandatory. However, no individual may be imprisoned for the violation of a rule or order if he proves that he had no knowledge of the rule or order. No indictment or information may be returned under this chapter more than five years after the alleged violation.

(b) The administrator may refer the evidence which is available concerning violations of this chapter or a rule or order under this chapter to the attorney general who may, with or without a reference, institute appropriate criminal proceedings under this chapter.

(c) Nothing in this chapter limits the power of the state to punish a person for conduct which constitutes a crime by statute or at common law. (§ 309 ch 198 SLA 1959; am § 40 ch 43 SLA 1964; am § 17 ch 86 SLA 1972)

Sec. 45.55.220. Civil liabilities. (a) A person is liable to the person buying the security from him for the consideration paid for the security, together with interest at six per cent a year from the date of payment, costs, and reasonable attorneys' fees, less the amount of income received on the security, upon the tender of the security, or for damages if he no longer owns the security, if he

(1) offers or sells a security in violation of AS 45.55.030(a), AS 45.55.070, or AS 45.55.170(b) or of a rule or order under AS 45.55.150 which requires the filing of sales literature before it is used, or of a condition imposed under AS 45.55.100(d) or AS 45.55.110(g) or (h), or

(2) offers or sells a security by means of an untrue statement of a material fact, or omits to state a material fact, the omission of which makes a statement misleading.

(b) Damages are the amount that would be recoverable upon a tender less the value of the security when the buyer disposed of it and interest at six per cent a year from the date of disposition.

(c) Every person who directly or indirectly controls a seller liable under (a) of this section, every partner, officer, or director of such a seller, every person occupying a similar status or performing similar functions, every employee of the seller who materially aids in the sale, and every broker-dealer or agent who materially aids in the sale are also liable jointly and severally with and to the same extent as the seller, unless the nonseller who is liable sustains the burden of proof that he did not know, and in exercise of reasonable care could not have known, of the existence of the facts by reason of which the liability is

(d) A tender specified in this section may be made at any time before entry of judgment.

(e) Every cause of action under this chapter survives the death of a person who might have been a plaintiff or defendant.

(f) No person may sue under this section more than three years after the contract of sale. No person may sue under this section

(1) if the buyer received a written offer, before suit and at a time when he owned the security, to refund the consideration paid together with interest at six per cent a year from the date of payment, less the amount of income received on the security, and he failed to accept the offer within 30 days of its receipt, or

(2) if the buyer received the offer before suit and at a time when he did not own the security, unless he rejected the offer in writing within 30 days of its receipt.

(g) No person who makes or engages in the performance of a contract in violation of a provision of this chapter or rule or order under this chapter, or who acquires a purported right under the contract with knowledge of the facts by reason of which its making or performance is in violation, may base a suit on the contract.

(h) A condition, stipulation, or provision binding a person acquiring a security to waive compliance with a provision of this chapter or a rule or order under this chapter is void.

(i) The rights and remedies provided by this chapter are in addition to any other rights or remedies that may exist, but this chapter does not create a cause of action not specified in this section or AS 45.55.040(f). (§ 310 ch 198 SLA 1959; am § 14 ch 105 SLA 1961; am § 18 ch 86 SLA 1972)

ALR references. — Who, other than officers and directors of a corporation, is civilly liable under the state securities acts (Blue Sky Laws) for purchase price of unauthorized securities, 59 ALR2d 1030.

Waiver of rights or release of liability in advance of controversy, under state securities act or Blue Sky Law, 61 ALR2d 1308.

Purchaser's right to set up invalidity of contract because of violation of state securities regulation as affected by doctrine of estoppel, 84 ALR2d 479.

What amounts to participation by corporate officer or agent in illegal issuance of security, in order to impose liability upon him under state securities regulations, 44 ALR3d 588.

Sec. 45.55.225. Hearings; Regulations. (a) The administrator shall adopt regulations, consistent with the provisions of this chapter, governing administrative hearings conducted by the administrator or his designee for the following:

(1) orders issued under AS 45.55.120, 45.55.140(d), or 45.55.200; in these instances, the administrator shall promptly send a notice of opportunity for hearing to the issuer of the securities and to all persons

(2) orders issued under AS 45.55.060; before the administrator enters an order under AS 45.55.060, he shall send to the person involved a notice of opportunity for hearing; if the person involved is an agent, then the administrator shall in addition notify the employing broker-dealer, investment advisor, or issuer.

(b) In conducting a hearing in accordance with (a) of this section, the administrator may issue a subpoena to compel the attendance of any witness or party and to compel production of evidence. (§ 4 ch 132 SLA 1977)

Sec. 45.55.230. Judicial review of orders. (a) A person aggrieved by a final order of the administrator may obtain a review of the order in the superior court by filing, within 60 days after the entry of the order, a written petition praying that the order be modified or set aside in whole or in part. A copy of the petition shall be served immediately upon the administrator, and thereupon the administrator shall certify and file in court a copy of the filing and evidence upon which the order was entered. When these are filed, the court has exclusive jurisdiction to affirm, modify, enforce, or set aside the order, in whole or in part.

(b) The commencement of proceedings under (a) of this section does not, unless specifically ordered by the court, operate as a stay of the administrator's order.

(c) The Administrative Procedure Act (AS 44.62) applies to all regulations issued or authorized under this chapter. (§ 311 ch 198 SLA 1959; am § 5 ch 132 SLA 1977)

Effect of amendment. — The 1977 amendment, in subsection (c), substituted "all regulations" for "all rules, regulations, orders and review" and deleted "including judicial review and its scope" following "this chapter."

Sec. 45.55.240. Rules, forms, orders, and hearings. (a) The administrator may make, amend, and rescind the rules, forms, and orders which are necessary to carry out this chapter, including rules and forms governing registration statements, applications, and reports, and defining terms, whether or not used in this chapter insofar as the definitions are not inconsistent with this chapter. For the purpose of rules and forms, the administrator may classify securities, persons, and matters within his jurisdiction, and prescribe different requirements for different classes.

(b) No rule, form, or order may be made, amended, or rescinded unless the administrator finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of this chapter. In prescribing rules and forms the [illegible] with the securities administrators of the

uniformity in the form and content of registration statements, applications, and reports wherever practicable.

(c) All financial statements shall be prepared in accordance with generally accepted accounting practices. The administrator may by rule or order prescribe (1) the form and content of financial statements required under this chapter, (2) the circumstances under which consolidated financial statements shall be filed, and (3) whether any required financial statements shall be certified by independent or certified public accountants.

(d) No provision of this chapter imposing liability applies to an act done or omitted in good faith in conformity with a rule, form, or order of the administrator, notwithstanding that the rule, form, or order may be later amended or rescinded or be determined by judicial or other authority to be invalid.

(e) Every hearing in an administrative proceeding shall be public unless the administrator in his discretion grants a request joined in by all the respondents that the hearing be conducted privately. (§ 312 ch 198 SLA 1959)

Sec. 45.55.250. Administrative files and opinions. (a) A document is filed when it is received by the administrator.

(b) The administrator shall keep a register of all applications for registration and registration statements which are or have ever been effective under this chapter and all denial, suspension, or revocation orders which have been entered under this chapter. The register shall be open for public inspection.

(c) The information contained in or filed with a registration statement, application, or report may be made available to the public under the rules which the administrator prescribes.

(d) Upon request and at the reasonable charges which he prescribes, the administrator shall furnish to any person photostatic or other copies (certified under his seal of office if requested) of any entry in the register or any document which is a matter of public record. In a proceeding or prosecution under this chapter, a copy so certified is prima facie evidence of the contents of the entry or documents certified.

(e) The administrator in his discretion may honor requests from interested persons for interpretative opinions. (§ 313 ch 198 SLA 1959; am §§ 16, 17 ch 105 SLA 1961)

Sec. 45.55.260. Scope of the chapter and service of process. (a) AS 45.55.010, 45.55.030(a), 45.55.070, 45.55.170, and 45.55.220 apply to persons who sell or offer to sell when (1) an offer to sell is made in this state, or (2) an offer to buy is made and accepted in this state.

(b) AS 45.55.010, 45.55.030(a), and 45.55.170 apply to persons who

(c) For the purpose of this section, an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer (1) originates from this state or (2) is directed by the offeror to this state and received at the place to which it is directed, or at a post office in this state in the case of a mailed offer.

(d) For the purpose of this section, an offer to buy or to sell is accepted in this state when acceptance is communicated to the offeror in this state and has not previously been communicated to the offeror, orally or in writing, outside this state. Acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received at the place to which it is directed, or at a post office in this state in the case of a mailed acceptance.

(e) An offer to sell or to buy is not made in this state when (1) the publisher circulates or there is circulated on his behalf in this state a bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past 12 months, or (2) a radio or television program originating outside this state is received in this state.

(f) AS 45.55.020, 45.55.030(c), and 45.55.170, so far as investment advisers are concerned, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

(g) Every applicant for registration under this chapter and every issuer which proposes to offer a security in this state through a person acting on an agency basis in the common-law sense shall file with the administrator, in the form which he prescribes by rule, an irrevocable consent appointing the administrator or his successor in office to be his attorney to receive service of lawful process in a civil suit, action, or proceeding against him or his successor executor or administrator which arises under this chapter or a rule or order under this chapter after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. A person who files the consent in connection with a previous registration need not file another. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless (1) the plaintiff, who may be the administrator in a suit, action, or proceeding instituted by him, immediately sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last address on file with the administrator, and (2) the plaintiff's affidavit of mailing is filed in the case on or before the return day of the process, if any, or within the further time which the court allows.

under this chapter, and he has not filed a consent to service of process under (g) of this section and personal jurisdiction over him cannot otherwise be obtained in this state, that conduct is considered equivalent to his appointment of the administrator or his successor in office to be his attorney to receive service of process in a civil suit, action, or proceeding against him or his successor executor or administrator which grows out of that conduct and which is brought under this chapter or a rule or order under this chapter, with the same force and validity as if served on him personally. Service may be made by leaving a copy of the process in the office of the administrator, but service is not effective unless (1) the plaintiff, who may be the adminstrator in a suit, action, or proceeding instituted by him, forthwith sends notice of the service and a copy of the process by registered mail to the defendant or respondent at his last known address or takes other steps which are reasonably calculated to give actual notice, and (2) the plaintiff's affidavit of compliance with this subsection is filed in the case on or before the return day of the process, if any, or within such further time as the court allows.

(i) When process is served under this section, the court, or the administrator in a proceeding before him, shall order the continuance which is necessary to afford the defendant or respondent reasonable opportunity to defend. (§ 314 ch 198 SLA 1959; am § 18 ch 105 SLA 1961)

Sec. 45.55.270. Short title. This chapter may be cited as the Alaska Securities Act of 1959. (§ 315 ch 198 SLA 1959)

Chapter 57. Takeover Bid Disclosure Act.

Section		Section	
10.	Provisions of takeover bids	70.	Criminal penalties
20.	Disclosure	80.	Civil liabilities
30.	Recommendations to accept or reject	90.	Consent to service of process
40.	Deceptive practices	100.	Regulations
50.	Investigations and subpoenas	110.	Definitions
60.	Injunctions	120.	Short title

Sec. 45.57.010. Provisions of takeover bids. The following provisions apply to every takeover bid:

(1) The period of time within which securities may be tendered by an offeree under a takeover bid shall not be less than 21 days nor more than 35 days from the date copies of the takeover bid are first published or sent or given to offerees.

(2) Securities deposited under a takeover bid may be withdrawn by an offeree or his attorney-in-fact by demand in writing on the offeror

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 282
Title An Act relating to the legal rate of interest
Requested by S. Labor & Commerce Date 3/17/81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE 3/17/81 PREPARED BY Willis E. Kirkpatrick, Director of Banking
AGENCY Dept. of Commerce & Economic Development
PHONE 465-2521

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

33-001 (Rev. 12/80)

SB

286

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 286:

A person recieving benefits under the Judicial Retirement System may obtain auditory, visual and dental insurance under AS39.30.090 (15). The person electing to have insurance shall pay the cost of the insurance.

Alaska Court System

State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

WM. GRANT CALLOW
General Counsel

303 K Street
Anchorage, Alaska 99501

April 14, 1981

Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Senator Mulcahy:

At the request of the Alaska Court System, SB 286 was introduced this year which, if enacted, would amend AS 39.30.090(15) to allow retired state judges and justices who receive retirement benefits from the state to purchase auditory, visual and dental insurance for themselves. The bill has been referred to the Senate Labor and Commerce Committee for review.

Under the current statute, retired teachers and other retired state employees are allowed to purchase this type of insurance coverage, and it seems that the drafters of the subsection may have inadvertently overlooked retired judges since (1) they are expressly covered in all the other related subsections of the statute (9-13); and (2) there is no fiscal impact because the retired judges are expressly required to pay the cost of the insurance. I am enclosing copies of the current statute and SB 286 for your reference.

A number of our retired state judges and justices, and particularly Senior Justice John Dimond, are understandably concerned about this bill.

On behalf of the Court System, I would like to respectfully request that SB 286 be considered by the Labor and Commerce Committee at its earliest convenience. Since it is a short bill without any apparent fiscal impact to the state, I would not expect it to be at all controversial.

I will, of course, be happy to appear before the Labor and Commerce Committee to answer any questions which you or any of the other committee members may have on the bill.

Please let me know if you have any questions.

Sincerely,

Grant Callow

Grant Callow
General Counsel

GC:kmp

enclosures

(8) "wages" means remuneration for employment, including the cash value of remuneration paid in any medium other than cash, except that "wages" does note include that part of remuneration which, even it it were for "employment" within the meaning of the Federal Insurance Contributions Act, would not constitute "wages" within the meaning of that act. (§ 2 ch 95 SLA 1951)

Editor's note. — The federal Insurance Contributions Act, referred to in paragraph (4), may be found in 26 U.S.C. §§ 3101 — 3125.

The Social Security Act, referred to in paragrpah (7), may be found in 42 U.S.C. § 301 et seq.

Article 2. Group Life and Health Insurance.

Section

90. Procurement of group insurance
100. Definitions

Sec. 39.30.090. Procurement of group insurance. The Department of Administration may obtain a policy or policies of group insurance covering state employees and employees of other participating governmental units subject to the following conditions:

(1) A group insurance policy shall provide one or more of the following benefits: life insurance, accidental death and dismemberment insurance, weekly indemnity insurance, hospital expense insurance, surgical expense insurance, dental expense insurance, audio-visual insurance, or other medical care insurance.

(2) Each eligible employee of the state, his spouse and his unmarried children chiefly dependent on him for support and each eligible employee of another participating governmental unit shall be covered by the group policy, unless exempt under regulations adopted by the commissioner of administration.

(3) A governmental unit may participate under a group policy if

(A) its governing body adopts a resolution authorizing participation, and payment of required premiums;

(B) a certified copy of the resolution is filed with the Department of Administration; and

(C) the commissioner of administration approves the participation in writing.

(4) Repealed by § 14 ch 47 SLA 1974.

(5) Repealed by § 14 ch 47 SLA 1974.

(6) The Department of Administration shall obtain the insurance policy from any insurer authorized to transact business in the state under AS 21.09 and 21.90.

(7) The Department of Administration shall make available bid specifications for desired insurance benefits to all insurance carriers

least once every succeeding five years. The lowest responsible bid submitted by an insurance carrier with adequate servicing facilities shall govern selection of a carrier under this section.

(8) If the aggregate of dividends payable under the group insurance policy exceeds the governmental unit's share of the premium, the excess shall be applied by the governmental unit for the sole benefit of the employees.

(9) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 who is not 65 years of age may obtain major medical and life insurance under this section for himself and any dependents who have not reached the age of 65 years.

(10) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 who is 65 years of age or older but who has dependents who are under 65 may obtain major medical insurance for these dependents under this section.

(11) A person receiving benefits under AS 14.25.110, AS 22.25 or AS 39.35 may obtain major medical and prescription drug insurance under this section for himself and any dependents to cover costs which are not covered by the federal old age survivor's and disability insurance program.

(12) A person electing to have insurance under (9), (10) or (11) of this section shall pay the cost of this insurance.

(13) No person may elect for coverage under (9), (10) or (11) of this section unless he was or is presently eligible for coverage under this section.

(14) For each permanent part-time employee electing coverage under this section, the state shall contribute one-half the state contribution rate for permanent full-time state employees, and the permanent part-time employee shall contribute the other one-half.

(15) A person receiving benefits under AS 14.25 or AS 39.35 may obtain auditory, visual, and dental insurance for himself under this section. The level of coverage for persons over 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal old age, survivors, and disability insurance program, if any. A person electing to have insurance under this paragraph shall pay the cost of the insurance. The commissioner of administration shall adopt regulations implementing this paragraph. (§ 2 ch 151 SLA 1955; am § 1 ch 168 SLA 1959; am § 1 ch 105 SLA 1965; am § 1 ch 70 SLA 1968; am § 66 ch 69 SLA 1970; am § 1 ch 123 SLA 1970; am § 1 ch 159 SLA 1972; am §§ 1, 2 ch 46 SLA 1973; am §§ 13, 14 ch 47 SLA 1974; am § 2 ch 27 SLA 1976; am § 39 ch 177 SLA 1978; am § 1 ch 55 SLA 1979)

Effect of amendments. — The 1976 amendment added paragraph (14).

The 1979 amendment, retroactive to "electing coverage under this section" and deleted "as a condition of employment" following "permanent part-time

(d) The employer may begin participation as a participating employer covered by AS 39.30.150 — 39.30.180 on the date designated by the commissioner. (§ 1 ch 135 SLA 1980; § 23 ch 146 SLA 1980)

Editor's note. — Section 7, ch. 135, SLA 1980 and § 52, ch. 146, SLA 1980, both make this section retroactive to January 1, 1980.

Sec. 39.30.180. Definitions. In AS 39.30.150 — 39.30.180,

(1) "commissioner" means the commissioner of the Department of Administration;

(2) "participating employer" means

(A) the State of Alaska; and

(B) an employer

(i) who is an employer as defined in AS 39.35.680(17);

(ii) who has never participated in or has withdrawn from participation in the federal social security system; and

(iii) whose participation in the supplemental employee benefit program has been approved by the commissioner. (§ 1 ch 135 SLA 1980; § 23 ch 146 SLA 1980)

Editor's note. — Section 7, ch. 135, SLA 1980 and § 52, ch. 146, SLA 1980, both make this section retroactive to January 1, 1980.

Chapter 35. Public Employees' Retirement System of Alaska.

Article
1. Administration (§§ 39.35.010 — 39.35.110)
2. Membership (§§ 39.35.120 — 39.35.158)
3. Contributions by Employees (§§ 39.35.160 — 39.35.240)
4. Contributions by Employers (§§ 39.35.250 — 39.35.290)
5. Service (§§ 39.35.300 — 39.35.360)
6. Benefits (§§ 39.35.370 — 39.35.547)
7. Participation by Political Subdivisions and Public Organizations (§§ 39.35.550 — 39.35.650)
8. General Provisions (§§ 39.35.660 — 39.35.690)

Article 1. Administration.

Section
10. Purpose and effective date
20. Administration
30. Public Employees Retirement Board
40. Powers and duties of board
42. Regulations
50. Administrator
60. Duties of the administrator
70. Duty of employers to furnish records
80. Duties of commissioner of revenue
90. Attorney general
100. Accounting
110. Investments

Sec. 39.35.010. Purpose and effective date. (a) The purpose of

(b) The system created becomes effective as of January 1, 1961, at which time contributions by the state and its employees begin. (§ 2 ch 143 SLA 1960; am § 25 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment inserted "or a political subdivision or public organization of the state" following "in the service of the state" near the middle of subsection (a).

Sec. 39.35.020. Administration. The commissioner of administration is responsible for the administration of the system and for carrying out this chapter. In addition he has the following powers and duties:

(1) maintain the accounts of the system;

(2) make payments for the various purposes specified;

(3) submit periodic reports or statements of account which are needed;

(4) issue a statement of account to an employee requesting it showing the amount of his contributions to the system;

(5) as soon as possible after the close of each fiscal year, and not later than six months after the close of each fiscal year, send to the governor, the legislature, and the board an annual statement on the operations of the system containing

(A) a balance sheet;

(B) a statement of income and expenditures for the year;

(C) a report on an actuarial valuation of its assets and liabilities;

(D) a detailed statement of the investments acquired and disposed of during the year;

(E) a list of investments owned;

(F) other statistical financial data which are necessary for a proper understanding of the financial condition of the system and the result of its operations;

(6) Repealed by § 50 ch 13 SLA 1980.

(§ 31 ch 143 SLA 1960; § 50 ch 13 SLA 1980)

Effect of amendment. — The 1980 amendment, repealed paragraph (6), which read "publish a synopsis of the annual report for the information of employees included in the system."

Sec. 39.35.030. Public Employees Retirement Board. (a) A Public Employees Retirement Board composed of five members is established.

(b) Three board members shall be members of the personnel board of the Department of Administration. The remaining two board members shall be members of the system and elected by the members of the system.

the board. The term of office of an elected member is six years. A vacancy in an unexpired elective term shall be filled by election for a new six year term.

(d) A member of the board may receive a per diem allowance and transportation expenses in carrying out the duties set out in this chapter. (§ 32 ch 143 SLA 1960; am §§ 14, 15 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "board members" for "members of the board" in the first sentence of subsection (b), rewrote the second sentence of that subsection, and rewrote subsection (c).

Sec. 39.35.040. Powers and duties of board. The Public Employees Retirement Board has the following powers and duties:

(1) to hold such regular meetings and special meetings considered necessary; all meetings are open to the public and the board keeps a full record of all its proceedings;

(2) to adopt, with modifications it considers proper, rules and regulations recommended by the administrator for carrying out this chapter;

(3) to consider and adopt resolutions on matters referred to it by the administrator in connection with changes in policy and revisions of this chapter;

(4) to act as an appeals board, hold hearings at the request of an employer, employee, surviving spouse or a beneficiary on decisions made by the administrator, and submit its findings to the administrator;

(5) to have prepared, at least biennially, an actuarial valuation of the total obligations under the system of each employer and, on the basis of the valuation and in time for incorporation of the results in the state budget, to certify to the appropriate budgetary authorities of each employer:

(A) an appropriate contribution rate for all employees, in addition to which the state shall pay the appropriate social security contribution; and

(B) an amount appropriate for each employer to liquidate his past service liability; the board shall have an actuarial and financial experience analysis of the system conducted at appropriate intervals, but no less frequently than once every six years; the actuarial valuations and the actuarial and financial experience analysis shall be prepared and certified by a member of the American Academy of Actuaries;

(6) to prescribe the policies for the proper operation of the system and carry on other activities which are considered necessary to carry out the intent and purpose of the system in accordance with this chapter;

(8) to waive the requirements of AS 39.35.520 in accordance with AS 39.35.522;

(9) to exercise the duties set out in AS 39.30.155 with respect to the supplemental employee benefit program (AS 39.30.150 — 39.30.180),

(10) to exercise the duties set out in AS 39.45.025 with respect to the deferred compensation program for state employees. (§ 32 ch 143 SLA 1960; am § 1 ch 235 SLA 1968; am § 1 ch 109 SLA 1970; am § 2 ch 159 SLA 1972; am §§ 1—4 ch 1 SLA 1974; am §§ 16, 17 ch 128 SLA 1977, am § 8 ch 174 SLA 1978; am § 24 ch 146 SLA 1980)

Effect of amendments. — The 1977 amendment substituted "surviving spouse" for "widow" in paragraph (4), and in paragraph (5), substituted "each employer" for "the state and each participating political subdivision and public organization" in two places in the introductory paragraph, deleted "participating" preceding "employers" in subparagraph (A) and preceding "employer" in subparagraph (B), and substituted "actuarial" for "biennial" in subparagraph (3).

The 1978 amendment added paragraph (8).

The 1980 amendment added paragraphs (9) and (10).

Sec. 39.35.042. Regulations. Regulations adopted by the board under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.32). (§ 3 ch 13 SLA 1963)

Sec. 39.35.050. Administrator. (a) The commissioner shall appoint an administrator in charge of the public employees' retirement system and the supplemental employee benefit program (AS 39.30.150 — 39.30.180).

(b) Repealed by § 50 ch 13 SLA 1980. (§ 33 a ch 143 SLA 1960; am § 5 ch 1 SLA 1974; am §§ 26, 50 ch 13 SLA 1980; am § 25 ch 146 SLA 1980)

Effect of amendments. — The first 1980 amendment deleted "the detailed affairs of" preceding "the system" near the end of the former first sentence of subsection (a), deleted the former second sentence of subsection (a) which read: "The commissioner may appoint the personnel director of the personnel division of the Department of Administration as the administrator," and repealed subsection (b), which read: "The administrator shall serve as secretary of the board. He shall administer the business of the system and is responsible for its proper operation."

The second 1980 amendment inserted "public employees' retirement" preceding "system" near the beginning of the section, and added "and the supplemental employee benefit program (AS 39.30.150—39.30.180)" at the end of the section.

Sec. 39.35.060. Duties of the administrator. The administrator shall:

(1) with the assistance of a technical actuarial advisor, submit to the board the required actuarial tables and the statistical data necessary for periodic actuarial surveys of the operating experience of the system;

information requested by the actuary for preparing valuations and periodic experience analyses;

(3) attend meetings of the board and serve as secretary of the board;

(4) certify to the appropriate division of the Department of Administration the payments made according to this chapter;

(5) remit to the appropriate division of the Department of Revenue for deposit in the name of the system, money received for the account of the system;

(6) formulate and recommend to the board rules and regulations to govern the operation of the system;

(7) formulate and recommend to the board regulations to govern the operation of the supplemental employee benefit program (AS 39.30.150 — 39.30.180). (§ 33 a ch 143 SLA 1960; am § 6 ch 1 SLA 1974; am § 27 ch 13 SLA 1980; am § 26 ch 146 SLA 1980)

Revisor's note. — Under the authority of AS 01.05.031, this section has been slightly reworded and rearranged for clarity.

Effect of amendments. — The first 1980 amendment added "and serve as secretary of the board" at the end of paragraph (3).

The second 1980 amendment added paragraph (7).

Sec. 39.35.070. Duty of employers to furnish records. Each employer shall furnish the administrator with records concerning the periods of service, dates of birth, compensation, new entrants into service, death, withdrawals and other employee data necessary for the proper and effective operation of the system. (§ 33 b ch 143 SLA 1960; am § 7 ch 1 SLA 1974)

Sec. 39.35.080. Duties of commissioner of revenue. The commissioner of revenue is the treasurer of the system and shall

(1) act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for them;

(2) receive cash belonging to the system;

(3) collect the interest and principal on securities acquired by the system and deposit it in the pension fund maintained in the name of the system;

(4) invest and reinvest the assets of the pension fund in accordance with AS 39.35.110. (§ 34 ch 143 SLA 1960)

Sec. 39.35.090. Attorney general. The attorney general of the state is the attorney for the system and shall represent it in a legal proceeding. (§ 35 ch 143 SLA 1960)

Sec. 39.35.100. Accounting. (a) The commissioner of administration shall establish and maintain an adequate system of accounts and records for the system. The accounts and records shall be integrated with the accounts, records, and procedures of the employers

(b) All income of the pension fund and all disbursements made by the fund shall be credited or charged, whichever is appropriate, to the following accounts:

(1) an individual account shall be maintained for each employee to record the amount of his mandatory contributions collected under AS 39.35.160(a). As of the last day of each calendar year and each fiscal year beginning with June 30, 1969, this account shall be credited with interest, by applying one half of the prescribed rate of interest to the balance in the account as of that date. Upon retirement, the amount actuarially determined as necessary to fully fund the benefits to be received shall be transferred first from the employee contribution account and, after the employee contribution account has been exhausted, then from the employer contribution account into the retirement reserve account.

(2) An individual account shall be maintained for each employee to record the amount of his voluntary contributions. As of the last day of each calendar year and each fiscal year beginning with June 30, 1969, this account shall be credited with interest, by applying one half of the prescribed rate of interest to the balance in the account as of that date. Amounts which, before termination of employment, are withdrawn by an employee from his savings account shall be charged to that account. Upon retirement, the amount actuarially determined as necessary to fully fund the benefits to be received shall be transferred first from the employee savings account and, after the employee savings account has been exhausted, then from the employer contribution account into the retirement reserve account.

(3) A separate account for each employer shall be maintained. The account shall be credited with contributions of the employer. This account shall be charged with the employer's actuarial charge for pension, death benefits, and other benefits paid under this system to or on behalf of the employee of the employer. After an allowance for interest credited to employee contribution accounts and employee savings accounts, the investment income of the pension fund shall be allocated to each employer asset share account according to the ratio that the average of the assets in an employer's account as of the beginning and as of the end of the fiscal year bears to the total of the average balance of all employers.

(4) An expense account shall be maintained for the system. This account shall be charged with all disbursements representing administrative expenses incurred by the system. At the end of the year the expense account shall be allocated to each employer in accordance with (b)(3) of this section. Expenditures from this account shall be included in the governor's budget for each fiscal year and are subject

Effect of amendments. — The 1977 amendment in subsection (b), substituted "record" for "which" in the first sentences of paragraphs (1) and (2), deleted "shall be credited as of the date of deduction or payment, as the case may be" from the end of the first sentences of paragraphs (1) and (2), substituted "retirement" for "granting a pension" near the beginning of the third sentence of paragraph (1), deleted "an employee's" preceding "retirement, the amount," in the fourth sentence of paragraph (2), substituted "savings account" for "contribution account" in two places in the fourth sentence of paragraph (2), and deleted an exception from the end of the second sentence of paragraph (3). The amendment also, in paragraph (4) of subsection (b), deleted "credited with all contributions of employers for the purposes of meeting their respective proportion of the total administrative expenses of the system during each fiscal year, and it shall be" following "This account shall be" near the beginning of the second sentence and rewrote the third sentence.

Sec. 39.35.110. Investments. (a) When, in the opinion of the commissioner of administration, there is on hand in the pension fund a surplus over and above a reasonably safe amount to take care of current demands upon the fund, the surplus, or so much of it as in the judgment of the commissioner of administration is considered proper, may be invested at competitive national market rates by the commissioner of revenue in

(1) Repealed by § 15 ch 122 SLA 1980.

(2) Repealed by § 15 ch 122 SLA 1980.

(3) Repealed by § 15 ch 122 SLA 1980.

(4) Repealed by § 15 ch 122 SLA 1980.

(5) shares of federally chartered savings and loan associations in Alaska, to the extent that the investment is insured by the federal government or an agency of the federal government;

(6) deposits with mutual savings banks in Alaska, to the extent that the investment is insured by the federal government or an agency of the federal government;

(7) deposits with state and national banks in Alaska to the extent that the investment is insured by the federal government or an agency of the federal government;

(8) Repealed by § 15 ch 122 SLA 1980.

(9) the guaranteed portion of Small Business Administration loans;

(10) first lien real estate mortgages guaranteed by the federal Veterans Administration;

(11) notes secured by mortgages of commercial or residential buildings if the mortgages are insured by a private mortgage insurance corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least $20,000,000; however,

(A) no mortgage insurance is necessary for commercial loans having loan-to-value ratios of less than 50 percent and the minimum coverage of other commercial loans shall be 10 percent for those having a

(B) no mortgage insurance is necessary for residential loans having a loan-to-value ratio of less than 70 percent and the minimum coverage of other residential loans shall be 10 percent for those having a loan-to-value ratio greater than 70 percent but less than 90 percent and 20 percent for those having a loan-to-value ratio of 90 percent;

(12) conventional residential mortgages if the originating financial institution retains at least 25 percent of the mortgage for a minimum of two years;

(13) notes secured by mortgages of commercial buildings if the originating financial institution retains at least 25 percent of the mortgage until maturity;

(14) FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972;

(15) Repealed by § 15 ch 122 SLA 1980.

(16) Repealed by § 15 ch 122 SLA 1980.

(17) bankers' acceptances which are eligible for discount at the Federal Reserve Bank and certificates of deposit issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation if a generally recognized secondary market exists for the certificates of deposit;

(18) obligations of, or obligations insured by or guaranteed by, the United States or agencies or instrumentalities of the United States;

(19) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(20) corporate debt securities with a minimum rating of "A" or an equivalent rating by a nationally recognized rating organization;

(21) preferred and common stock of companies which have paid dividends in each of the three years immediately preceding the investment;

(22) commercial paper bearing the highest rating of a nationally recognized rating organization;

(23) securities of foreign governments, foreign governmental agencies, and foreign corporations the principal, interest or dividends on which are payable in either United States dollars or foreign currencies; however, investments under this paragraph may not exceed 10 percent of the total investments of the pension fund;

(24) foreign time deposits of both United States-owned and foreign-owned banks and trust companies denominated in either United States dollars or foreign currencies; however, investments under this paragraph may not exceed 20 percent of the total investments of the pension fund;

(25) gold bullion certified as to fineness of at least 99½ percent; however, investments under this paragraph may not exceed 10 percent

that Alaska gold bullion is available if it can be obtained at a price comparable to out-of-state sources.

(b) Repealed by § 15 ch 122 SLA 1980.

(c) In making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income. However, no more than 50 percent of the pension fund may be invested at a given time in corporate stocks and debt securities, nor may more than five percent of the voting stock of one corporation be owned. Stocks eligible for purchase are restricted to stocks which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission.

(d) Except as provided in this section, the commissioner of revenue may

(1) invest and reinvest the principal and income of the pension fund without distinction between principal and income;

(2) sell, exchange, convey, transfer, or otherwise dispose of an investment of the pension fund held in the name of the system by private contract or at public auction;

(3) vote upon a stock, bond, or other security; give a general or special proxy or power of attorney with or without power of substitution; exercise a conversion privilege, subscription right, or other option and make payments incidental to it; consent to or participate in a corporate reorganization or other change affecting corporate securities, delegate discretionary power, pay an assessment or charge in connection with the delegation; and generally exercise any of the powers of an owner with respect to stocks, bonds, securities, or other investments held in the pension fund;

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in the pension fund in the name of the system;

(6) do all acts whether or not expressly authorized which are considered necessary or proper for the protection of the investments held in the pension fund.

(e) To qualify as a mortgage which may be purchased under (a)(11), (12), or (13) of this section,

(2) the mortgage may not have been held by the originating financial institution for a period greater than 90 days.

(f) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for 60 days, the pension fund shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half of one per cent.

(g) Repealed by § 15 ch 122 SLA 1980.

(h) The commissioner of revenue may enter into futures contracts for the sale of investments purchased under (a) of this section only for the purpose of hedging an existing equivalent ownership position in the investments.

(i) The commissioner of revenue may transfer at any time a portion of the assets of the pension fund to a trust which is qualified under sec. 401(a) of the Internal Revenue Code (26 U.S.C. sec. 401(a)) and exempt from taxation under sec. 501(a) of the Internal Revenue Code (26 U.S.C. sec. 501(a)) and which is maintained as a medium for pooling a portion of the funds of pension and profit-sharing trusts for diversifying investments in real estate and interests in real estate.

(j) The commissioner of revenue may enter into a contract or trust agreement necessary to effectuate the transfer of assets of the pension fund or to maintain the assets of the pension fund to be transferred to a trust under (i) of this section. (§ 37 ch 143 SLA 1960; am § 1 ch 129 SLA 1961; am § 1 ch 150 SLA 1962; am § 2 ch 4 SLA 1964; am §§ 1 — 3 ch 80 SLA 1964; am § 1 ch 111 SLA 1964; am § 1 ch 56 SLA 1967; am § 4 ch 73 SLA 1969; am §§ 3, 4 ch 17 SLA 1970; am § 2 ch 112 SLA 1972; am §§ 3, 4 ch 25 SLA 1974; am §§ 3, 4 ch 59 SLA 1977; am §§ 7 — 10, 15 ch 122 SLA 1980)

Cross references. — As to custody and investment of the teachers retirement fund, see AS 14.25.180. As to investment of surplus funds of the state, see AS 37.10.070.

Effect of amendments. — The 1977 amendment, in subsection (a), inserted "private mortgage insurance" in paragraph (11), added the language beginning "however, (A) no mortgage insurance is necessary" to the end of that paragraph, and added paragraphs (16) and (17).

The 1980 amendment, in subsection (a), inserted "at competitive national market rates" near the end of the introductory paragraph, repealed former paragraphs (1) — (4), (8), and (15) and (16), substituted "the" for "such" preceding "investment" in paragraphs (5) and (6), substituted "of the security" near the beginning of the introductory paragraph of paragraph (11), substituted "buildings" for "real estate" and added "until maturity" in paragraph (13), and "negotiable time" preceding "certificates of deposit" in paragraph (17), substituted "United States domestic" for "commercial" near the middle of paragraph (17), added the material at the end of paragraph (17), which begins: "which are members of" and ends: "certificates of deposit," and added paragraphs (18) — (25). The amendment, in subsection (c), substituted "an institutional investor" for "a man," and "large investments entrusted to it" for "his own affairs" near the beginning of the subsection, deleted "his" following "permanent disposition of" and "the" preceding "probable safety of capital" near the middle of the subsection, inserted

them as well as the probable safety of his capital" at the end of the first sentence, deleted "mutual funds and" preceding "corporate stocks" near the beginning of the second sentence, substituted "debt securities" for "bonds," and "may" for "any" near the middle of the second sentence, substituted "and" for a comma following "bank stocks," and deleted "and shares in mutual funds" following "insurance stocks" near the middle of the third sentence; rewrote subsection (e); added subsections (h) — (j); and repealed subsections (b) and (g).

Article 2. Membership.

Section
120. Commencement of participation
125. Participation of elected officials
130. [Repealed]
140. [Repealed]
150. Re-employment of retired employees
153. Army and air national guard employees
154. North Pacific Fishery Management Council employees
155. [Obsolete]
157. [Obsolete]
158. Administrative director of courts

Sec. 39.35.120. Commencement of participation. (a) An employee of the state shall be included in this system upon commencement of his employment with the state, or on January 1, 1961, whichever is later. An employee of a political subdivision or public organization which becomes an employer shall be included in the system on the effective date of the employer's participation or the date of the employee's commencement of employment with the employer, whichever is later.

(b) **[Effective until January 1, 1981]** Inclusion in the system is a condition of employment for an employee except an elected official.

[Effective January 1, 1981] Inclusion in the system is a condition of employment for an employee except as otherwise provided for an elected official. (§ 4 ch 143 SLA 1960; am § 1 ch 155 SLA 1966; am § 28 ch 13 SLA 1980; am § 27 ch 146 SLA 1980)

Effect of amendments. — The first 1980 amendment deleted "or quasi-public" preceding "organization" near the beginning of the second sentence in subsection (a).

The second 1980 amendment, effective January 1, 1981, inserted "as otherwise provided for" preceding "an elected official" near the end of subsection (b).

Negotiability of retirement system benefits. — Given subsection (b) of this section and AS 39.35.170, which make inclusion in the public employees retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070 — 23.40.260). January 23, 1978, Op. Att'y Gen.

Sec. 39.35.125. Participation of elected officials. [Effective until January 1, 1981] (a) An elected official, other than a state legislator who is an active member of the teachers' retirement system, may be included in the system if, within 60 days after taking the oath

(1) he directs his employer in writing to make the necessary deductions from his salary and to pay into the system the contributions required by and for an employee under this chapter and

(2) notice is given the commissioner of administration in writing.

(b) After an elected official has elected to be included in the system he and his employer are liable for contributions whenever he is a qualified elected official of an employer.

(c) An elected official, other than a state legislator who is an active member of the teachers' retirement system, may be included retroactively in the system if he makes retroactive contributions equal to what he would have made if he had elected to be included when he became eligible under (a) of this section.

(d) A former elected state official whose latest term of office expired before May 12, 1966 may be included retroactively in the system and receive credit for time previously served as an elected state official if he makes retroactive contributions equal to what he would have made if he had been eligible for membership in the system.

(e) Former elected state officials whose latest term of office expired before May 12, 1966 must claim prior legislative service and make retroactive contributions before July 1, 1977.

[Effective January 1, 1981] (a) An elected official is included in the system unless he files a written waiver of coverage with the administrator. A waiver under this subsection waives coverage of future employment as an elected official, regardless of any change of employer. An elected official may file a waiver under this subsection at any time after his election to office, including the period before he takes the oath of his office. An elected official may revoke a waiver under this subsection by filing a written revocation with the administrator. A revocation under this subsection operates prospectively only, and the elected official may not receive credited service for service as an elected official while the waiver was in effect. There is no limit on the number of times an elected official may file a waiver or revocation under this subsection.

(b) Service as an elected official before January 1, 1981, with an employer may be included retroactively as credited service with the system if the elected official or former elected official makes retroactive contributions equal to what he would have made if he had been included in the system when he took the oath of his office as an elected official. The rate used to calculate the retroactive contributions may not be less than the rate in effect on January 1, 1961. An elected official or former elected official must claim prior service and make retroactive contributions before February 1, 1982. An elected official or former elected official may not receive credited service under this subsection for any period in which he was receiving a retirement benefit from the system. An elected official or former elected official receiving a

to claim credited service under this subsection unless he is reemployed as an active member and claims the credited service before February 1, 1982. Service as an elected official with an employer constitutes employment as an active member so long as no waiver of coverage under (a) of this section is in effect.

(c) An elected official included in the system and his employer are liable for contributions whenever he is an elected official unless a waiver of coverage under (a) of this section is in effect. (§ 2 ch 155 SLA 1966; am § 3 ch 159 SLA 1972; am § 1 ch 254 SLA 1976; am § 19 ch 128 SLA 1977; am §§ 8, 9 ch 82 SLA 1979; am § 28 ch 146 SLA 1980)

Effect of amendments. — The 1976 amendment added subsections (d) and (e).

The 1977 amendment substituted "an employer" for "a participating employer" at the end of subsection (b).

The 1979 amendment inserted "other than a state legislator who is an active member of the teachers' retirement system" in the introductory language of subsection (a) and in subsection (c).

The 1980 amendment, effective January 1, 1981, rewrote the section.

Editor's note. — Section 46, ch. 146, SLA 1980, effective January 1, 1981, provides: "AS 39.35.125 (a), as reenacted in § 28 of this Act, applies to an elected official holding office on or after January 1, 1981, even though he may have assumed office before that date."

Sec. 39.35.130. Termination of participation.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 5, ch. 143, SLA 1960.

Sec. 39.35.140. Re-employment of former employees.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 6, ch. 143, SLA 1960.

Sec. 39.35.150. Re-employment of retired employees. If a retired employee subsequently becomes an active member, no benefit payments will be made during the period of re-employment. During the period of re-employment, deductions from the employee's salary will be made in accordance with AS 39.35.160. Upon subsequent retirement, the retired employee is entitled to receive an additional pension based on the credited service and the average monthly compensation earned during the period of re-employment in accordance with AS 39.35.370. (§ 7 ch 143 SLA 1960; am § 4 ch 109 SLA 1970; am § 4 ch 159 SLA 1972; am § 11 ch 1 SLA 1974; am § 20 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

(CSSB 264), see 1972 House Journal, p. 924.

"re-employed" by the state on a "regular full-time basis" if he were elected to the state legislature. 1965 Op. Att'y Gen., No. 4, issued prior to the 1977 amendment. But see AS 39.35.125.

A former territorial employee, retired under the Public Employees Retirement Act of 1949, was entitled to receive both his salary as a legislator and his retirement benefits while he served in the state legislature. 1965 Op. Att'y Gen., No. 4, issued prior to the 1977 amendment.

Sec. 39.35.153. Army and air national guard employees. Regular full-time civilian employees of the Alaska Army National Guard and Air National Guard, whose entire salary is paid from allotted federal funds, are included in this system, if the federal or state government pays the employer's contributions. If the amount which the federal government may legally contribute to the system is lower than the required employer's contribution, the state government shall contribute the difference. If the employer's contributions are not paid when due, no service credit for the period of delinquency will be granted until the contributions are paid. (§ 1 ch 53 SLA 1965)

Sec. 39.35.154. North Pacific Fishery Management Council employees. Employees of the North Pacific Fishery Management Council appointed under 16 U.S.C. 1852(f)(1) (§ 302(f)(1) of P. L. 94-265), whose compensation is paid from allotted federal funds, are included in the system if the council pays the employer's contributions. If the employer's contributions are not paid when due, no credited service for the period of delinquency may be granted until the contributions are paid. (§ 1 ch 86 SLA 1977)

Legislative history report. — For report on ch. 86, SLA 1977 (CSSB 135), see 1977 House Journal, p. 1206; 1977 Senate Journal, p. 535.

Sec. 39.35.155. Former magistrates. [Obsolete]

Revisor's note. — This section is obsolete. It reads as follows: "A magistrate who terminated his employment before July 1, 1977 may be included retroactively in the system and receive service credit for time previously served as a magistrate if, before July 1, 1978, he makes retroactive contributions equal to what he would have made if he had been participating in the system."

Editor's note. — The obsolete section derived from § 21, ch. 128, SLA 1977.

Sec. 39.35.157. Alaska State Office in Tokyo employees. [Obsolete]

Revisor's note. — This section is obsolete. It reads as follows: "An employee of the Alaska State Office in Tokyo (AS 44.19.082) who, before July 1, 1979, was not treated as being included in the system may be included retroactively in the system and receive service credit time by the state on his behalf in an individual account in the Far East severance account in the Department of Administration. If the employee does not elect to be included in the system retroactively, the state shall pay the employee the amount held by the state on the employee's behalf in the Far East severance account on July 1, 1980, at

Editor's note. — The obsolete section was derived from § 4, ch. 52, SLA 1979.

Sec. 39.35.158. Administrative director of courts. An administrative director of the Alaska court system who withdraws from the judicial retirement system under AS 22.25.012 is eligible for membership in the system and shall receive credited service in the system for service rendered as administrative director. To be eligible for membership in the system under this subsection, the administrative director must contribute to the system

(1) the amount he would have contributed if he had been a member during the period of his membership in the judicial retirement system; and

(2) any contributions for services as administrative director refunded to him by the system at the time he became a member of the judicial retirement system. (§ 30 ch 146 SLA 1980)

Article 3. Contributions by Employees.

Section

160. Amount of employee contributions
170. Employment contributions mandatory
180. Voluntary contributions by employee
190. [Repealed]
200. Refund upon termination of employment for reason other than death
210. [Repealed]
220. [Repealed]
230. Refund upon death of retired employee
240. Withdrawal of voluntary contributions

Sec. 39.35.160. Amount of employee contributions. (a) While participating in the system each peace officer and each fireman shall contribute five per cent and every other employee shall contribute four and one-quarter per cent of his compensation to the public employees' retirement system.

(b) Repealed by § 6 ch 135 SLA 1980 and § 39 ch 146 SLA 1980. (§ 8a ch 143 SLA 1960; am § 2 ch 235 SLA 1968; am § 3 ch 35 SLA 1969; am § 5 ch 109 SLA 1970; am § 5 ch 159 SLA 1972; am § 2 ch 58 SLA 1979; § 6 ch 135 SLA 1980; § 39 ch 146 SLA 1980)

Effect of amendments. The 1979 amendment substituted the language beginning "he considered to have agreed" for "pay the appropriate social security contribution" in subsection (b).

The first and second 1980 amendments, retroactive to January 1, 1980, repealed subsection (b).

Editor's note. — Section 2, ch. 123, SLA 1976, purported to amend subsection [illegible] a special election conducted by the Public Employees Retirement Board to be held among active members of the retirement system. During the conduct of this election, the division shall remain impartial and take no position on the question." The amendment was rejected by the public employees.

Section 1, ch. 58, SLA 1979, purported to amend subsection (a) of this section. [illegible] January 1, 1980, by the Department of Administration among the active members of the Public Employees' Retirement System. The amendment was rejected.

Legislative history report. For report on ch. 159, SLA 1972 (FCCS HCS CSSB 264), see 1972 House Journal, p. 924.

Sec. 39.35.170. Employment contributions mandatory. Contributions of employees shall be made by payroll deductions. Every included employee shall be considered to consent to payroll deductions. It is of no consequence that a payroll deduction may cause the compensation paid in cash to an employee to be reduced below the minimum required by law. Payment of an employee's compensation, less payroll deductions, is a full and complete discharge and satisfaction of all claims and demands by the employee relating to remuneration of his services during the period covered by the payment, except with respect to the benefits provided under the system. (§ 8 b ch 143 SLA 1960; am § 3 ch 155 SLA 1966)

Negotiability of retirement system benefits. — Given AS 39.35.120(b) and this section, which make inclusion in the public employees retirement system (AS 39.35) a condition of employment for state employees and contributions to it mandatory, the conclusion is that the legislature intended the statutory provisions of the public employees retirement system to apply to all state employees, and benefits under the public employees retirement system may not be negotiated under the Public Employment Relations Act (AS 23.40.070–23.40.260). January 23, 1978, Op. Att'y Gen.

Sec. 39.35.180. Voluntary contributions by employee. In addition to the mandatory contributions required of an employee under AS 39.35.170, an employee may, during each calendar year he is participating in the system, voluntarily contribute to his employee savings account an amount not to exceed five per cent of his compensation for that year. (§ 8 c ch 143 SLA 1960)

Sec. 39.35.190. Disposition of contributions.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 8 d, ch. 143, SLA 1960.

Sec. 39.35.200. Refund upon termination of employment for reason other than death. (a) An inactive employee, not on leave-without-pay status or layoff status, is entitled to receive a refund of the balance of (1) his employee contribution account and (2) his employee savings account.

(b) If, upon termination of employment, an employee has credited service of less than five years and has less than $1,000 in his employee

reemployed with an employer and whose contributions have not been refunded before re-employment is not eligible for a refund. (§ 9 a ch 143 SLA 1960; am § 12 ch 1 SLA 1974; am § 1 ch 81 SLA 1976; am § 22 ch 128 SLA 1977)

Effect of amendments. — The 1976 amendment inserted "a" preceding "refund" in present subsection (a) and in the first sentence of present subsection (b) and added the second sentence of present subsection (b).

The 1977 amendment designated the former first sentence as subsection (a) and the former second and third sentences as subsection (b), rewrote present subsection (a), and in present subsection (b), substituted "an employee" for "the employee" in the first sentence and substituted "an employer" for "a participating employer of the system" in the second sentence.

Sec. 39.35.210. Refund upon termination of employment by death.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 9 b, ch. 143, SLA 1960; am § 106, ch. 127, SLA 1974.

Sec. 39.35.220. Refund upon retirement.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 9 c, ch. 143, SLA 1960.

Sec. 39.35.230. Refund upon death of retired employee. Upon the death of a retired employee, the employee's beneficiary shall be paid

(1) the excess of the balance in the employee contribution account of the deceased employee as of the date of the beginning of the employee's pension payments over the sum of the pension payments previously received by the employee, but this amount may not be paid if a joint and survivor option under AS 39.35.450 is in effect or if a surviving spouse's pension under AS 39.35.440 is payable; and

(2) the remaining payments purchased by the balance in the employee savings account of the deceased employee as of the date he retired. (§ 9 d ch 143 SLA 1960; am § 107 ch 127 SLA 1974)

Sec. 39.35.240. Withdrawal of voluntary contributions. An active employee may withdraw his savings account only if he receives the consent of the administrator. The administrator may permit a withdrawal before termination of employment only in cases of financial need. (§ 9 e ch 143 SLA 1960; am § 23 ch 128 SLA 1977)

Effect of amendment. The 1977 amendment rewrote the first sentence and substituted "administrator" for "board" in the second sentence.

Article 4. Contributions by Employers.

Section
250. Calculation of employer's contribution rate
260. Annual calculation
270. Amount of employer's contributions
280. Determination and payment of state contributions
290. Rules governing [illegible] of employer contributions

Sec. 39.35.250. Calculation of employer's contribution rate. (a) An employer shall make contributions to the system in amounts determined in accordance with this section. For the purposes of this section, the past service date for each employer is the entry date of the employer or December 31, 1972, whichever is later. After December 31, 1972, if amendments to this chapter are enacted which substantially affect benefits accrued before the effective date of the amendment, the past service date will be changed to December 31 of the year immediately preceding that in which the amendment is enacted. The contribution rate is the sum of the consolidated employer rate and the past service rate.

(b) As used in (a) of this section, "consolidated employer rate" means the percentage of compensation of all active employees in the system which, if paid over the period of their credited service after their past service date and when combined with all employee contributions, is sufficient to provide the benefits earned after such past service dates. This percentage is uniformly determined for all employers and is applicable to each employer.

(c) As used in (a) of this section, "past service rate" means the percentage of compensation of all active employees in the system necessary to provide the annual amount required to amortize the unfunded obligations of the employer for benefits earned before the employer's past service date over a period not to exceed 40 years. The period of amortization begins at the past service date of each employer. The percentage is separately determined for each employer. (§ 10 a ch 143 SLA 1960; am § 13 ch 1 SLA 1974; am § 24 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote the section.

Sec. 39.35.260. Annual calculation. The contribution rate for each employer shall be calculated every fiscal year, using the information available at the time the computation is made. The computation shall be completed in time to be considered in the state budget. Each employer shall provide in its budget for the payment of

Sec. 39.35.270. Amount of employer's contributions. The amount of each employer's contributions shall be determined by applying the employer's contribution rate to the total compensation paid to the active employees of the employer for each payroll period. This amount shall be remitted by the employer to the administrator in accordance with AS 39.35.610. (§ 10 c ch 143 SLA 1960; am § 14 ch 1 SLA 1974; am § 25 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment divided the former first sentence into the present first and second sentences, substituted "compensation paid to the active employees" for "of all compensation paid to participating employees" in the present first sentence, rewrote the present second sentence, and deleted the former second sentence, which provided for the determination of the percentage of the annual payment for past service liability

Sec. 39.35.280. Determination and payment of state contributions. The total amount of contributions required under AS 39.35.350 — 39.35.290 to be made by the state into the system shall be ascertained by the department of administration as soon as practicable after the end of each calendar month and shall be paid from the general fund of the state, except as provided in this section. If an employee is paid wages by the state during the month from a special or administrative fund provided by law, the payment to the system shall be made from that special or administrative fund. If the wages of an employee include both wages for state employment paid from the general fund of the state and wages for state employment paid from special or administrative funds the amount to be paid into the system shall be prorated among the state funds in proportion to the wages paid to the individuals from each fund. However, no payment may be made from the special or administrative fund if the statute covering the special or administrative fund prohibits it. (§ 10 d ch 143 SLA 1960)

Sec. 39.35.290. Rules governing transmittal of employer contributions. The board shall adopt rules to ensure the orderly and efficient transmittal of employer contributions. (§ 10 e ch 143 SLA 1960)

Article 5. Service.

Section
300. Employment with the state
310. Employment with other employers
320. [Repealed]
330. Leave of absence
340. Military service
345. Temporary service credit
350. Reinstatement of credited service
360. Earlier service

of this chapter, the University of Alaska is not an office, department, division, or agency of the state. Service credit may not be granted under this chapter for service which is creditable under the teachers' retirement system, AS 14.25.

(b) A permanent part-time employee of the state receives credited service on a pro rata basis to that which would have been earned as a permanent full-time employee. (§ 11 ch 143 SLA 1960; am § 4 ch 155 SLA 1966; am § 4 ch 27 SLA 1976; am § 26 ch 128 SLA 1977; am § 29 ch 13 SLA 1980)

Effect of amendments. — The 1976 amendment added subsection (b).

The 1977 amendment rewrote subsection (a) and substituted "credited service" for "service credit" in subsection (b).

The 1980 amendment added the present second and third sentences in subsection (a).

Sec. 39.35.310. Employment with other employers. (a) An active employee is entitled to credited service for periods of employment with a political subdivision or a public organization beginning with the effective date of the employer's participation in the system. The employee is also entitled to credited service for periods of employment as designated in the employer's participation agreement.

(b) A permanent part-time employee of a political subdivision or a public organization receives credited service on a basis proportionate to that which would have been earned as a permanent full-time employee. (§ 12 ch 143 SLA 1960; am § 27 ch 128 SLA 1977; am § 30 ch 13 SLA 1980)

Effect of amendments. — The 1977 amendment rewrote the section.

The 1980 amendment deleted "or quasi-public" preceding "organization" in the first sentence of subsection (a) and in subsection (b).

Sec. 39.35.320. Transfers between employers.

Repealed by § 55 ch 128 SLA 1977.

Editor's note. — The repealed section derived from § 13, ch 143, SLA 1960.

Sec. 39.35.330. Leave of absence. (a) A leave of absence with pay authorized by an employer will not be considered as interrupting employment. If the employee is a permanent part-time employee, credited service will be granted on a basis proportionate to that which would have been earned as a permanent full-time employee.

(b) A leave of absence without pay which exceeds 10 working days [illegible] authorized by an employer will be

Effect of amendment. — The 1977 amendment designated the provisions of this section as subsection (a), rewrote that subsection, and added subsection (b).

Sec. 39.35.340. Military service. (a) A vested employee is entitled to credited service for active military service in the armed forces of the United States, either by enlistment or induction, if the employee did not receive a dishonorable discharge. The credited service allowed may not exceed an aggregate period of five years. Benefits are not payable on credited service for military service unless the employee makes retroactive contributions to the system for the period of time that service credit is claimed. However, if the employee was in the employ of an employer on the date of entry into the armed forces and returned to the employ of an employer within 90 days after the date of his discharge from military service, he is not required to make retroactive contributions under this system for the period of credited service.

(b) In order to obtain credited service under this section, an employee shall make an election to do so and shall verify his period of military service. When eligibility for credited service for military service has been established, an indebtedness shall be determined as follows: (1) the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year 1976 or the year in which an employee first becomes vested under this chapter, whichever is later, multiplied by (2) six percent, this product multiplied by (3) the number of years of military service credited under this section. Interest as prescribed by regulation accrues on this indebtedness commencing on July 1, 1977, or one year following the date a person first becomes vested, whichever is later. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(c) A retired employee on July 1, 1976, is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive credited service for military service, a retired employee must verify his military service. When verified, a retired employee is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. The effective date of this increased benefit is the beginning of the month following that in which eligibility has been established.

(d) The credited service granted under this section may not be used to satisfy the credited service requirements for normal retirement.

do so and must verify his period of military service. When eligibility for military service has been established, an indebtedness shall be determined as follows: the employee's actual compensation, or the calculated annual compensation for those employees working less than 12 months, during the calendar year the employee terminated, shall be multiplied by six percent; this product shall then be multiplied by the number of years of military service credit under this section. Interest as prescribed by regulation accrues on this indebtedness commencing July 1, 1978. Any outstanding indebtedness which exists at the time a person is appointed to retirement will necessitate an actuarial adjustment to the benefits payable based upon that military service.

(f) An employee cannot be credited with a period of active military service in the armed forces of the United States under this section if credit for that military service was granted under AS 14.25.

(g) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible to receive increased benefits based upon military service as described in (a) of this section. To receive credited service for military service, the surviving spouse must verify the employee's military service. When verified, the surviving spouse is entitled to receive an increased benefit which shall be actuarially adjusted to reflect his or her indebtedness for that credit. The indebtedness shall be calculated in the same manner as described in (b) of this section except that it shall be based on the average monthly compensation used in calculating the benefit. Benefits payable under this subsection are effective the first day of the month following that in which eligibility has been established.

(h) The combined period of military service claimed under this section and under AS 14.25 may not exceed five years. (§ 15 ch 143 SLA 1960; am § 1 ch 123 SLA 1976; am § 29 ch 128 SLA 1977; am § 6 ch 174 SLA 1978; am §§ 31—36 ch 13 SLA 1980)

Effect of amendments. — The 1976 amendment rewrote this section.

The 1977 amendment substituted references to credited service for references to service credit throughout subsections (a) through (d), substituted "A vested employee" for "An employee" at the beginning of subsection (a), deleted the former third sentence of subsection (a), relating to when service credit might be granted, inserted "first" in the first sentence of subsection (b), and in subsection (c), substituted "retired employee" for "person receiving retirement benefits under this chapter" in the first sentence, substituted "employee" for "person" in the second sentence, substituted "retired person to receive military service credit, he" in the third sentence, and deleted "retirement" preceding "benefit" in the fourth sentence. The amendment also rewrote subsection (d) and added subsections (e) and (f).

The 1978 amendment added subsection (g).

The 1980 amendment in subsection (b), deleted "before July 1, 1977 or within one year following the date when the employee first becomes vested under this chapter, if later" at the end of the first sentence, and added a comma following "July 1, 1977" in the next to last sentence; in subsection (c), inserted a comma following "July 1, 1976" near the beginning of the subsection,

credit" for "such credit" at the end of the third sentence; in subsection (e), inserted a comma following "July 1, 1976" near the beginning of the subsection, and deleted "before July 1, 1978" at the end of the second sentence; in subsection (f) inserted "a period of" preceding "active military service" near the beginning of the subsection, and inserted "that" preceding "military service" near the end of the subsection; in subsection (g) deleted "within one year of the effective date of this act" at the end of the second sentence, and substituted "effective the first day of the month following that in which eligibility has been established" for "payable retroactively to July 1, 1977" at the end of the subsection; and added present subsection (h).

Editor's note. — Section 51, ch. 146, SLA 1980 provides: "An employee who is a retired member of the public employees' retirement system on July 1, 1980, is entitled to receive increased benefits based on military service granted under AS 39.35.340(b) as amended by ch. 13, SLA 1980."

Sec. 39.35.345. Temporary service credit. (a) A vested employee is entitled to credited service for periods in which he regularly rendered full-time personal service to an employer but was not qualified to participate in the system because of the exclusion of temporary workers as described in AS 39.35.680(21)(C)(iii). Benefits are not payable on this credited service unless the employee makes retroactive contributions to the system for the period of time that credited service is claimed. The retroactive contribution is the full actuarial cost of providing benefits for the credited service claimed.

(b) To obtain credited service under this section, an employee must elect to do so and must verify his period of temporary service before July 1, 1981, or within one year following the date when the employee first becomes vested under this chapter, if later. When eligibility for temporary service credit has been established, an indebtedness shall be determined as provided in (a) of this section. Interest as prescribed by regulation accrues on that indebtedness beginning July 1, 1981, or one year following the date an employee first becomes vested, whichever is later. Any outstanding indebtedness existing at the time an employee retires will require an actuarial adjustment to the benefits payable based on the temporary service.

(c) A deferred vested employee on July 1, 1980, is eligible to claim credited service under (a) of this section. To obtain credited service under this section, a deferred vested employee must elect to do so and must verify his period of temporary service before July 1, 1981. When eligibility for temporary service credit has been established, an indebtedness shall be determined as provided in (a) of this section. Interest as prescribed by regulation accrues on that indebtedness beginning July 1, 1981. Any outstanding indebtedness existing at the time a deferred vested employee retires will require an actuarial adjustment to the benefits payable based on the temporary service.

(d) The credited service granted under this section may not be used to satisfy the credited service requirements for normal or early retirement. (§ 29 ch 146 SLA 1980)

Revisor's note. — This section was originally enacted as AS 39.35.156.

Sec. 39.35.350. Reinstatement of credited service. (a) An employee who receives a refund of contributions in accordance with AS 39.35.200 forfeits corresponding service under this chapter.

(b) An employee may reinstate credited service associated with a refund by repaying the total amount of the refund. Interest will accrue from the date of the refund until repayment of the refund or retirement, whichever occurs first. Payments will apply first to accrued interest and then to principal.

(c) If, on the date of retirement, an employee has not paid in full the amount of his reinstatement indebtedness, he may irrevocably elect either (1) option one — to receive a refund of the principal paid on the reinstatement indebtedness and forfeit the corresponding credited service, or (2) option two — to cancel the outstanding indebtedness due by accepting an actuarial reduction to the retirement benefit for life. (§ 16 ch 143 SLA 1960; am § 3 ch 235 SLA 1968; am § 2 ch 81 SLA 1976; am § 30 ch 128 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote this section.

Sec. 39.35.360. Earlier service. (a) An employee employed before January 1, 1980, who completes three years of credited service with the state after January 1, 1961, for which the employee makes contributions required by this chapter is entitled to credited service for service rendered (1) before January 1, 1961, as an employee of the state and former Territory of Alaska; (2) before January 1, 1961, as an employee of the United States government in Alaska, excluding service in the armed forces of the United States; or (3) after January 1, 1961, as a peace officer or correctional officer of a participating political subdivision of the state if the employee is vested and is an active peace officer in the system as of July 1, 1980. The retirement benefits payable to an employee under this section shall be reduced by the amount of the retirement pension benefits paid to him by the United States government for the same period of service.

(b) An employee who is entitled to credited service for employment before January 1, 1961, is not required to make retroactive contributions under this chapter.

(c) **[Effective until January 1, 1981]** An elected state official who elects to participate in the system under AS 39.35.125 is entitled to service credit for service rendered to the state or territory before 1961 if

all his service rendered to

(2) his service rendered to the state after January 1, 1961, totals three years or more.

Repealed by § 41 ch 146 SLA 1980, effective January 1, 1981.

(d) Repealed by § 2 ch 26 SLA 1974.

(e) An employee of a detention facility provided by a local government unit to the territorial or state government under AS 33.30.060, who continues in state employment upon transfer of the facility to the state, is entitled to credited service for his prior service with the facility if the employee remains in continuous employment with the state until July 1, 1976. To obtain credited service the employee is required to make retroactive contributions for the period of service between January 1, 1961 and the effective date of the transfer of the facility to the state.

(f) A surviving spouse receiving or entitled to receive a surviving spouse's pension under AS 39.35.440 or benefits under a joint and survivor option filed under AS 39.35.450 is eligible for increased benefits for any service credit authorized under (a) of this section, but not claimed or authorized by law before the employee's death.

(g) An employee is eligible to receive up to 10 years of credited service for service rendered before July 1, 1979, as a temporary employee of the legislature of the state or territory during legislative sessions. To receive retroactive credited service under this subsection, an employee must claim the service before July 1, 1980. When the employee claims the service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate these contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on this indebtedness beginning July 1, 1980. Any outstanding indebtedness which exists at the time the employee retires will require an actuarial adjustment to the benefits which are based upon retroactive credited service under this subsection.

(h) An employee of the state is eligible to receive credited service as provided under AS 39.35.300(b) for service rendered as a permanent part-time employee before January 1, 1976. To receive retroactive credited service under this subsection, the employee must claim the service before July 1, 1981. When the employee claims retroactive credited service, an indebtedness of the employee to the system shall be established. The amount of this indebtedness is equal to the contributions the employee would have made if he had been eligible for membership in the system. The rate used to calculate the contributions may not be less than the rate in effect on January 1, 1961. Interest as prescribed by regulation accrues on the indebtedness beginning July 1,

which are based on retroactive credited service under this subsection. (§ 17 ch 143 SLA 1960; am § 4 ch 80 SLA 1964; am §§ 5, 6 ch 155 SLA 1966; am § 4 ch 235 SLA 1968; am § 1 ch 55 SLA 1973; am §§ 1, 2 ch 26 SLA 1974; am §§ 1, 2 ch 245 SLA 1976; am §§ 31 — 33 ch 128 SLA 1977; am §§ 1, 7 ch 174 SLA 1978; am § 3 ch 81 SLA 1979; am § 10 ch 82 SLA 1979; am §§ 31, 32, 41 ch 146 SLA 1980)

Revisor's note. — Subsection (a) of this section apparently has no effect after January 1, 1980, since it applies only to employees employed before that date.

Subsection (g) of this section apparently has no effect after July 1, 1980, since credited service under this subsection must have been claimed by that date.

Effect of amendments. — The 1976 amendment, among other things, added the language beginning "and heavy equipment operators" to the end of that sentence, and added subsection (e).

The 1977 amendment, among other things, substituted "credited service for employment before January 1, 1961" for "service credit for prior service" and "this chapter" for "this system for the period of prior service credit" in subsection (b) and substituted "credited service" for "service credit" in the first and second sentences of subsection (e).

The 1978 amendment, among other things, added subsection (f).

The second 1979 amendment added subsection (g).

Sections 31 and 32, ch. 146, SLA 1980, rewrote subsection (a) and added subsection (h). Section 41 of ch. 146, effective January 1, 1981, repealed subsection (e).

Editor's note. — Section 15, ch. 82, SLA 1979 provides that AS 39.35.360(g) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Article 6. Benefits.

Section		Section	
370.	Retirement benefits	480.	Cost-of-living allowance
380.	[Repealed]	485.	Minimum benefit
385.	Conditional service retirement benefits	490.	Designation of beneficiary
390.	[Repealed]	495.	Time limit for application
395.	Voluntary contribution benefit	500.	Safeguard of employee funds held by the system
400.	Nonoccupational disability pensions	510.	Voluntary waiver of benefits
410.	Occupational disability pensions	520.	Adjustments
420.	Nonoccupational death benefits	522.	Waiver of adjustments
430.	Occupational death benefit	525.	Limitation on use of credited service as peace officer or fireman
440.	Death after occupational disability	530.	Limit on pension
450.	Joint and survivor option	535.	Medical benefits
451.	Spouse survivor benefits under Public Employees Retirement Act of 1949	540.	Minimum benefit
460.	Level income option	545.	[Repealed]
470.	Other forms of payment	546.	Tax exemption
475.	Post-retirement pension adjustment	547.	Effect of amendments

Sec. 39.35.370. Retirement benefits. (a) A terminated employee is eligible for a normal retirement benefit (1) at age 55 with at least five years credited service, or (2) with at least 20 years of credited service as a peace officer or fireman, or (3) with at least 30 years of credited

(c) The monthly amount of a retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of credited service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the years of service. An actuarial adjustment must be made for an early retirement benefit.

(d) The monthly amount of a retirement benefit for a deferred vested member shall be determined in accordance with (c) of this section as it was in effect on the date of the employee's termination of employment.

(e) Benefits payable under this section accrue from the first day of the month after which all of the following requirements are met: (1) The member meets the eligibility requirements of this section; (2) he terminates his employment; and (3) he applies for retirement. The benefits are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which a benefit is payable under this section.

(f) A member who is vested in the system as a peace officer or fireman at the time he incurs a permanent disability of at least 33-1/3 per cent under workers' compensation and who (1) undergoes retraining because of the disability; and (2) is subsequently employed with the state or other employer in a position other than peace officer or fireman, is eligible for a normal retirement benefit as a peace officer or fireman under (a) and (c) of this section when he has completed 20 years of credited service. (§ 18 ch 143 SLA 1960; am § 2 ch 102 SLA 1963; am § 7 ch 155 SLA 1966; am § 5 ch 235 SLA 1968; am § 6 ch 109 SLA 1970; am §§ 6, 7 ch 159 SLA 1972; am § 15 ch 47 SLA 1974; am § 34 ch 128 SLA 1977; am § 33 ch 146 SLA 1980)

Effect of amendments. — The 1977 amendment rewrote this section.

The 1980 amendment added subsection (f).

Editor's note. — Section 49, ch. 146, SLA 1980, provides: "The retirement benefit payable to a member of the public employees' retirement system who is receiving a normal retirement benefit under AS 39.35.370 on the effective date of this Act, and who at the time of his retirement was receiving a disability pension under the public employees' retirement system, shall be increased by a percentage equal to the percentage of all post-retirement pension adjustments payable under AS 39.35.475 during the period that the member was receiving a disability benefit."

Legislative history report. — For report on ch. 159, SLA 1972 (FCCS HCS CSSB 234), see 1972 House Journal, p. 992.

Sec. 39.35.380. Early retirement benefits.

Repealed by § 55 ch 128 SLA 1977.

Sec. 39.35.385. Conditional service retirement benefits. (a) An employee is eligible for a normal retirement benefit at age 55 with at least two years of credited service if the employee also is eligible for a normal retirement salary under the teachers' retirement system (AS 14.25).

(b) An employee is eligible for an early retirement benefit at age 50 with at least two years of credited service if the employee also is eligible for an early retirement salary under the teachers' retirement system (AS 14.25).

(c) Credited service for which contributions were refunded is not creditable under this section unless the refunded contributions have been repaid. For purposes of this section, a member or former member does not have to be reemployed under this system in order to pay refunded contributions. Compound interest at the rate prescribed by regulation must be added to the reinstatement indebtedness from the date of the refund to the date of repayment.

(d) The monthly amount of a normal retirement benefit for a peace officer or fireman is two per cent of the average monthly compensation times the years of service up through 10 years, plus two and one-half per cent of the average monthly compensation times the years of service over 10 years. For all other employees it is two per cent of the average monthly compensation times the number of years of service. An actuarial adjustment of this amount must be made for an early retirement benefit.

(e) Benefits payable under this section accrue from the first day of the month (1) in which the member meets the eligibility requirements of this section, (2) following the date of termination, and (3) following application for retirement, and are payable the last day of the month. If payment is delayed, a retroactive payment shall be made to cover the period of deferment. The last payment shall be made for the month in which the member dies or is no longer eligible for a benefit under this section.

(f) An employee is eligible for a normal retirement benefit at age 55 or an early retirement benefit at age 50 if he has at least 60 days of credited service as a temporary employee of the legislature during each of five legislative sessions. (§ 3 ch 174 SLA 1978; am § 11 ch 82 SLA 1979; am § 37 ch 13 SLA 1980)

Effect of amendments. — The 1979 amendment added subsection (f).

The 1980 amendment added the present second and third sentences in subsection (c).

Editor's note. — Section 15, ch. 82, SLA 1979, provides that AS 39.35.385 (f) applies to a temporary employee of the Eleventh Legislature, First Session, even though he may not be an employee under the public employee's retirement system on July 1, 1979.

Sec. 39.35.390. Deferred retirement benefit.

Editor's note. — The repealed section derived from § 20, ch. 143, SLA 1960; am. § 5, ch. 80, SLA 1964; am. § 8, ch. 155, SLA 1966; am. §§ 6, 7, ch. 235, SLA 1968; am. § 8, ch. 109, SLA 1970; am. § 9, ch. 159, SLA 1972; am. § 3, ch. 81, SLA 1976.

Sec. 39.35.395. Voluntary contribution benefit. The balance of the employee's savings account will be paid in one of the following options as elected by the employee: (1) a lump sum payment; or (2) a life annuity on a full cash refund or term-certain basis; or (3) installments over a designated period of time. (§ 35 ch 128 SLA 1977)

Sec. 39.35.400. Nonoccupational disability pensions. (a) An employee is eligible for a nonoccupational disability pension if his employment is terminated because of a total and apparently permanent nonoccupational disability, as defined in AS 39.35.680, before his normal retirement date and after five or more years of credited service.

(b) The nonoccupational disability benefits accrue beginning the first day of the month following termination of employment as a result of the disability and are payable the last day of the month. If a final determination granting the benefit is not made in time to pay the benefit when due, a retroactive payment shall be made to cover the period of deferment. Benefits shall be continued after one year from the date of appointment to nonoccupational disability only if the disabled employee fulfills the requirements set out in (e) of this section. The last payment shall be for (1) the month in which the death of the disabled employee occurs, or (2) the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability benefits under the Social Security Act, or (4) the month in which the disabled employee reaches normal retirement age, whichever occurs first.

(c) If the disabled employee becomes ineligible to receive nonoccupational disability benefits, he is entitled to receive a normal or early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. However, the period of disability does not constitute credited service.

(d) The monthly amount of the nonoccupational disability pension shall be determined in accordance with AS 39.35.370(c), considering the employee's credited service and compensation before termination of employment.

(e) A disabled employee receiving a nonoccupational disability benefit shall provide the administrator, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If the disabled employee is

demonstrate that disability payments under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability benefits from the system shall cease. If that information is subsequently provided to the administrator, benefit payments will resume beginning for the month following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately.

(f) A disabled employee's nonoccupational disability pension terminates when the employee first attains eligibility for normal retirement. At that time, his retirement benefits will be calculated under the provisions of AS 39.35.370(c). (§ 21 ch 143 SLA 1960; am § 9 ch 155 SLA 1966; am §§ 9, 10 ch 109 SLA 1970; am § 10 ch 159 SLA 1972; am §§ 15 — 17 ch 1 SLA 1974; am §§ 4—8 ch 123 SLA 1976; am §§ 36, 37 ch 128 SLA 1977)

Effect of amendments. — The 1976 amendment rewrote subsections (b) and (e), substituted "disabled employee becomes ineligible to receive nonoccupational disability benefits" for "retired employee recovers from the nonoccupational disability" in the first sentence of subsection (c), deleted the former second and third sentences of subsection (d), which read, respectively, "However, the amount shall be reduced by wage continuation payments which are available to the employee and which are attributable to the employers" and "The amount may not exceed the benefit determined in accordance with § 410(d) of this chapter." The amendment also added subsection (f).

The 1977 amendment in subsection (b), deleted "pension" following "nonoccupational disability" in the first sentence, added "and are payable the last day of the month" to the end of the first sentence, substituted "benefit" for "pension" and for "first month's pension" in the second sentence, substituted "employee" for "person" in the third sentence, and in the fourth sentence, inserted "(1)," deleted "(1)" following "month in which," and inserted "in which" near the end. In subsection (e), the amendment substituted "benefit" for "pension" and "benefits" for "retirement" in the first sentence, substituted "a social security payment" for "social security" and "disability payments" for "disability benefits" in the second sentence, substituted "benefits" for "payments" in the third sentence, inserted "benefit" preceding "payments" in the fourth sentence, and deleted the former sixth sentence, which read "Upon notification, the administrator shall cease making disability payments."

Editor's note. — The Social Security Act, referred to in subsections (b) and (e), may be found in 42 U.S.C. § 301 et seq.

Sec. 39.35.410. Occupational disability pensions. (a) An employee is eligible for an occupational disability pension if his employment is terminated because of a total and apparently permanent occupational disability, as defined in AS 39.35.380, before his normal retirement date.

(b) The occupational disability benefits accrue beginning the first

the disability and are payable the last day of the month. If a final determination granting the benefit is not made in time to pay the benefit when due, a retroactive payment shall be made to cover the period of deferment. Benefits shall be continued after one year from date of appointment to occupational disability only if the disabled employee fulfills the requirements set out in (g) of this section. The last payment shall be for the month in which (1) the death of the disabled employee occurs, or (2) the month in which the disabled employee recovers from disability, or (3) the month in which the disabled employee ceases to be eligible for disability payments under the Social Security Act, or (4) the month the disabled employee reaches normal retirement age, whichever occurs first.

(c) If the disabled employee becomes ineligible to receive occupational disability benefits before his normal retirement date, the disabled employee shall then be entitled to receive an early retirement pension if he would have been eligible for the pension had his employment continued during the period of disability. The period of disability constitutes credited service.

(d) The monthly amount of an occupational disability pension is 40 per cent of the disabled employee's gross monthly compensation at the time of termination due to disability.

(e) Repealed by § 12 ch 123 SLA 1976.

(f) An employee is not entitled to an occupational disability pension unless he files an application for it with the administrator within six months after the date of the accident, if disability is attributable to an accident, or within six months after the date his disability begins if the disability is caused by an occupational disease. If the disability is attributable to an accident, the employee shall file a notice of the accident with the administrator within 30 days following the date it occurred. This 30-day filing period is suspended for the time the employee's condition prevents him from filing.

(g) A disabled employee receiving an occupational disability benefit shall provide the administrator, one year after appointment to disability benefits and once each year thereafter until disability benefits cease, proof of continuing eligibility to receive disability payments under the Social Security Act. If a disabled employee is otherwise ineligible for a social security payment, he shall provide the administrator with sufficient medical evidence once each year to demonstrate that disability payments under the Social Security Act would be payable had the employee been otherwise eligible. If the disabled employee fails to provide the administrator with evidence of continuing eligibility for disability payments under the Social Security Act or other medical evidence required by the administrator within 30 days following each anniversary date, the disability benefit from the

following that in which the information is provided. When disability payments under the Social Security Act cease, it is the responsibility of the disabled employee to notify the administrator immediately.

(h) A disabled employee's occupational disability pension shall terminate when the disabled employee first attains eligibility for normal retirement. At that time, his retirement benefit will be calculated under the provisions of AS 39.35.370(c). (§ 22 ch 143 SLA 1960; am § 11 ch 109 SLA 1970; am §§ 18—21 ch 1 SLA 1974; am § 13 ch 205 SLA 1975; am §§ 9—13 ch 123 SLA 1976; am §§ 38, 39 ch 128 SLA 1977; am § 38 ch 13 SLA 1980)

Effect of amendments. — The 1976 amendment rewrote subsections (b), (d), and (g), substituted "disabled employee becomes ineligible to receive occupational disability benefits" for "retired employee recovers from the occupational disability" and "disabled employee shall" for "retired employee shall" in the first sentence of subsection (c), deleted "for all employees" from the end of the second sentence of subsection (c), and repealed subsection (e), which read "An employee's occupational disability pension shall be reduced by any workmen's compensation or wage continuation payments which are available to the employee and which are attributable to the employers."

The 1977 amendment in subsection (b), deleted "pension" following "occupational disability" in the first sentence, added "and are payable the last day of the month" to the end of the first sentence, substituted "benefit" for "pension" and for "first month's pension" in the second sentence, substituted "employee" for "person" in the third sentence, and substituted "payments" for "benefits" in the fourth sentence. In subsection (g), the amendment substituted "benefit" for "pension" and "benefits" for "retirement" in the first sentence, substituted "a social security payment" for "social security" and "payments" for "benefits" in the second sentence, substituted "benefit" for "payments" in the third sentence, inserted "benefit" preceding "payments" in the fourth sentence, and deleted the former sixth sentence, which read "Upon notification, the administrator shall cease making disability payments."

The 1980 amendment substituted "disabled employee's" for "retired employee's" at the beginning of subsection (h), and inserted "disabled" preceding "employee" near the middle of the first sentence of subsection (h).

Editor's note. — Chapter 205, SLA 1975, which amended this section, was submitted to the voters by referendum and was rejected.

The Social Security Act, referred to in subsections (b) and (g), may be found in 42 U.S.C. § 301 et seq.

Sec. 39.35.420. Nonoccupational death benefits. (a) If the death of an employee occurs from nonoccupational causes after completing less than one year of credited service, the employee's beneficiary shall be paid the balance of: (1) the employee's contribution account; and (2) the employee's savings account. If the death of an employee occurs from nonoccupational causes after completing at least one year but less than five years of credited service, a lump sum death benefit shall be paid to the beneficiary of the employee. The amount of the lump sum death benefit shall be $100 times years of credited service plus $1,000. The lump sum death benefit is in addition to the balance of the employee's contribution account and savings account.

Sec. 14.25.080. Contributions by the state. The state legislature may appropriate to the retirement fund an amount equal to one-half the percentage, as certified by the administrator, of the amount required in addition to teacher contributions to provide the benefits of this chapter. It may be appropriated annually and deposited in the retirement fund monthly. (§ 9 ch 145 SLA 1955; am § 6 ch 89 SLA 1960; am § 8 ch 179 SLA 1960; am § 4 ch 84 SLA 1969; am § 6 ch 138 SLA 1970; am § 6 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment, in the first sentence, deleted "either" following "equal to" and "or an amount equal to five per cent of the teachers' base salaries, whichever is less" following "this chapter."

Sec. 14.25.090. Contributions by the state for arrearages. Repealed by § 7 ch 66 SLA 1973.

Editor's note. — The repealed section derived from § 10, ch. 145, SLA 1955; § 7, ch. 89, SLA 1960; § 9, ch. 179, SLA 1960; § 3, ch. 86, SLA 1963.

Sec. 14.25.100. Credit for service in the armed forces. (a) A teacher who served as an active member of the armed forces of the United States after December 31, 1939, having entered the armed forces immediately after service as a teacher in a public school, may receive creditable service under this retirement system, up to a maximum of five years. Each 12 months of military service equals one school year, and lesser military periods shall be determined for credit purposes in a proportionate ratio to a school year. To receive creditable service under this section, the teacher must have returned to teaching in a public school within one year following discharge from the armed forces. If entry into the armed forces was immediately preceded by membership service and, following discharge, is continued by membership service within one year thereafter, such service shall not be counted for purposes of determining the applicability of the 10 year limitation on outside service.

(b) Where a teacher is unable to resume teaching in a public school within one year following discharge because of hospitalization, rehabilitation training, a disability derived while in the armed forces, or other like circumstances, the administrator shall determine the allowance or disallowance of any service in the armed forces.

(c) Credit of service in the armed forces shall be granted only if the teacher makes contributions for such service in the same manner as is required for outside service under § 60 of this chapter.

(d) Credit for service in the armed forces shall be granted for up to four years if a teacher's entrance into the teaching profession was delayed due to military service. This delay may be either before, during,

the same manner as required for teachers on leave of absence under AS 14.20.345(f) of this chapter. However, credit under this section shall only be granted when the teacher applying has been granted other than a dishonorable military discharge. (§ 11 ch 145 SLA 1955; am § 8 ch 89 SLA 1960; am § 1 ch 57 SLA 1974)

Effect of amendment. — The 1974 amendment added subsection (d).

Sec. 14.25.110. Eligibility for service retirement. (a) A teacher is eligible for normal retirement if he has completed either

(1) at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, and has attained the age of 55 years, or

(2) at least eight years of membership service and has attained the age of 55 years, or

(3) at least 25 years of creditable service, the last five of which have been membership service, or

(4) at least 20 years of membership service.

(b) A teacher is eligible for early retirement if he has completed either of the service requirements in (a)(1) or (a)(2) of this section and has attained the age of 50 years.

(c) A teacher who has completed either of the service requirements in (a)(1) or (a)(2) of this section and has attained the age of 65 years during the school year, shall be retired on the July 1 following his 65th birthday unless he is retained by request of his employer. Provisions of this subsection regarding compulsory retirement do not apply to personnel of the University of Alaska.

(d) A retired teacher who has been receiving a disability retirement salary is eligible for a service retirement salary upon attaining 55 years of age.

(e) The burden is upon the applicant to prove eligibility for retirement benefits to the full satisfaction of the administrator. (§ 12 ch 145 SLA 1955; am § 4 ch 142 SLA 1957; am § 9 ch 89 SLA 1960; am § 4 ch 86 SLA 1963; am § 6 ch 151 SLA 1966; am § 2 ch 85 SLA 1971; am § 8 ch 66 SLA 1973; am § 1 ch 77 SLA 1973; am § 2 ch 57 SLA 1974; am §§ 1 — 3 ch 173 SLA 1975)

Effect of amendments. — The 1971 amendment, in subsection (a), inserted "either (1)," substituted "have" for "has," deleted "and has completed at least 10 years of membership service" following "membership service in the state," and inserted "or (2) 30 years of creditable service, the last five years of which have stood prior to the 1973 amendments to this section, the amendment deleted "and has completed at least 10 years of membership service" following "membership service in the state."

Section 8, ch. 66, SLA 1973, rewrote this section.

The 1974 amendment substituted "25

The 1975 amendment, effective June 30, 1975, in subsection (a), inserted "except that a member first hired after July 1, 1975 must have eight years of membership service" in paragraph (1), substituted "55 years" for "60 years" in that paragraph and in paragraph (2), added "or" at the end of paragraph (3), and added paragraph (4). The amendment also substituted "50 years" for "55 years" in subsection (b) and "55 years" for "60 years" in subsection (d).

Legislative intent. — The legislature did not intend such a strict interpretation as to require a teacher to work the last 5 school years for the full 146 day year. 1966 Op. Att'y Gen., No. 2.

A teacher satisfies the requirement of subsection (a) by working any 5 creditable years or combination of fractional years totalling 5 years, as long as they are the last 5 years she worked and they are in membership service. 1966 Op. Att'y Gen., No. 2, issued prior to the 1975 amendment.

ALR references. — Increase of pension benefits as applicable to those already receiving benefits, 118 ALR 996.

Statute of limitations in respect of action or proceeding to establish right to or recovery of benefit or pension, 136 ALR 809.

What amounts to waiver of status or rights under teachers' tenure statute, 136 ALR 1078.

Sec. 14.25.126. Manner of computing service retirement salary. (a) Every teacher who has applied for retirement salary and who has satisfactorily shown his eligibility as provided in § 110 of this chapter, shall receive from the retirement fund, for each school year subsequent to the date of application, a retirement salary payable on the first day of each month, beginning the month following retirement.

(b) The payment made on the first day of the month in which death occurs is the last payment.

(c) The amount of retirement salary to be paid is computed as follows:

(1) If the teacher is eligible for normal retirement as of the date on which the application for a retirement salary is filed and has paid into the retirement fund the full amount of his indebtedness, his annual retirement salary is two per cent of his average base salary during any three of the last 10 years of membership service multiplied by the total number of years of creditable service, including credited fractional years.

(2) If, on the date of applying for retirement salary, the teacher has not paid the full amount of his indebtedness to the retirement fund, he may elect either:

(A) option one — to have any retirement salary which becomes due the teacher withheld until such time as the total amount withheld is equal to the outstanding indebtedness due the retirement fund, or

(B) option two — to cancel the outstanding indebtedness due the retirement fund by accepting a reduced annuity for life, computed by deducting 10 per cent of the indebtedness still outstanding from the annual retirement salary that would be due and owing the teacher if there were no indebtedness.

(3) If option one under (c)(2) of this section is elected, the teacher, at a subsequent date, may pay into the retirement fund all or any part of

(4) If the teacher is not eligible for normal retirement, but is eligible for early retirement, as defined in § 110(a) and (b) of this chapter, on the date when application for retirement salary is filed, his annual retirement salary is the amount that would be due and owing to the teacher if he were at least 55, reduced by the amount derived from the following computations: multiply one-half of one per cent times the number of months, to the nearest month, by which the applicant's attained age on the date of filing application falls short of 55 years, times the amount of annual retirement salary that would be due and owing the teacher if he were at least 55 years of age.

(5) If the teacher has any outstanding indebtedness to the fund on the date of applying for retirement salary, he may elect either option one or two in (c)(2) of this section. However, if he elects option two, the reduction as computed in (4) of this subsection shall be applied after deriving the adjusted retirement salary under option two.

(6) If the retiring teacher was a member of the retirement system established by the Retirement Act of 1945, his annual retirement salary shall in no case be less than $975 plus 10 per cent of the total contribution made by the teacher to the retirement fund of 1945.

(7) If a teacher, after receiving retirement salary, is reemployed as a full-time teacher in membership service, his retirement salary shall be suspended during the period of reemployment. The retirement salary shall be suspended for the entire school year if the teacher is reemployed as a full-time teacher in membership service for a period of time equivalent to a year of service.

(8) During a period of reemployment following retirement, deductions from salary may be made at the option of the teacher for contributions to the retirement fund as provided in § 50 of this chapter. If deductions are made, the annual amount of retirement salary shall be increased when the teacher again retires from active membership service, by adding to the annual amount previously payable, an amount equal to two per cent of the teacher's base salary for the period of reemployment. However, if the teacher has not attained the age of 55 on the date when payment of retirement salary is resumed, the additional amount provided for in this paragraph shall be reduced by the amount derived from the following computations: multiply one-half of one per cent times the number of months, to the nearest month, by which the teacher's attained age on the date of subsequent retirement falls short of 55 years, times the additional amount provided in this paragraph.

(d) A teacher who was receiving a service retirement salary on July 1, 1955, shall receive an additional $50 a month for life, payable on the first day of each month, if the teacher was at least 55 years of age on July 1, 1955.

(g) A teacher who retired before July 1, 1971, with at least 25 years of creditable service, at least 15 of which were membership service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary based on a minimum sum of $20 per month for each year of creditable service, not including adjustments made under § 142 or § 143 of this chapter. A teacher who retired before July 1, 1971, with less than 25 years of creditable service, and who is entitled to a retirement salary under either this retirement fund or the retirement fund of 1945, shall receive a service retirement salary of at least $20 per month for each year of credited service. If, on the date the teacher originally applied for retirement salary, the teacher elected option two as provided by (c)(2)(B) of this section as payment of his indebtedness or a reduced benefit in accordance with (c)(4) of this section, the amount of the dollar reduction shall remain in effect.

(h) A teacher who retires before July 1, 1972, shall receive a service retirement salary computed either under (c)(1) of this section, not including adjustments made under §§ 142 and 143 of this chapter, or under (g) of this section, whichever computation would provide the teacher with the greater amount of service retirement salary. If, on the date the teacher originally applied for retirement salary, the teacher elected option two under (c)(2)(B) of this section as payment of his indebtedness or a reduced benefit under (c)(4) of this section, the amount of the dollar reduction shall remain in effect.

(i) Any amendment to this section shall be applied to a teacher who retired before the effective date of the amendment at the option of the retired teacher. (§ 13 ch 145 SLA 1955; am §§ 10, 11 ch 89 SLA 1960; § 1 ch 57 SLA 1955; am § 7 ch 151 SLA 1966; am §§ 9, 10 ch 138 SLA 1970; am §§ 3, 4 ch 85 SLA 1971; am §§ 1 — 3 ch 86 SLA 1971; am §§ 1, 2 ch 41 SLA 1972; am § 4 ch 71 SLA 1972; am § 1 ch 47 SLA 1973; am §§ 9 — 14 ch 66 SLA 1973; am §§ 2, 3 ch 77 SLA 1973; am §§ 4 — 6, 14 ch 173 SLA 1975)

Revisor's note (1971). — Regarding the conflict between (c)(1) and (f) (the latter of which was added by § 4, ch. 85, SLA 1971), see the SB 39 free conference committee's "letter of intent" at page 712 of the 1971 Senate Journal. Also, compare the definition of "average base salary" in AS 14.25.220(22), added by § 8, ch. 86, SLA 1971.

In § 3, ch. 86, SLA 1971, subsection (g) was incorrectly designated subsection (f).

Effect of amendments. — The first 1971 amendment, in subsection (c)(1), deleted "at least" preceding "either 60 years of age," substituted "older or has" for "55 years of age with" and substituted "eight" for "10" "during any three of the last eight years of membership service" in paragraph (1) of subsection (c).

The first 1973 amendment deleted "of not less than $375 a month" preceding "based on a minimum sum" in the first sentence of subsection (g).

The second 1973 amendment, inserted "and who has satisfactorily shown his eligibility as provided in § 110 of this chapter" near the beginning of subsection (a), substituted "eligible for normal retirement as of" for "either 60 years of age or older or has 30 years of creditable service on" and the language beginning "during any three" and ending "years of creditable service" for "as defined in (f) of this section, multiplied by the total number of years of creditable service" in paragraph (1) of subsection (c), inserted "on" near the beginning of that paragraph, substituted the language beginning "is not eligible" and ending "§ 110(a) and (b) of this chapter" for "has not attained the age of 60 or completed 30 years of creditable service" and "his" for "the" in paragraph (4) of that subsection, inserted "is the amount," "the" preceding "date of filing," "years," and "years of age" in that paragraph, deleted "shall be" preceding "reduced" and "annually" following "reduced" in that paragraph, substituted "a" for "the" in the first sentence of paragraph (8) of that subsection, inserted "following retirement" in that sentence, "teacher's" in the second sentence of that paragraph, and "years" in the third sentence of that paragraph, repealed subsections (e) and (f), deleted "of not less than $375 a month" following "service retirement salary" in the first sentence of subsection (g), and substituted "per" for "a" in that sentence and in the second sentence of that subsection.

The second 1971 amendment, inserted "or completed 30 years of creditable service" near the beginning of subsection (c)(4), substituted "two per cent" for "one and one-half per cent" in the second sentence of subsection (c)(8) and added subsection (g).

The first 1972 amendment, in subsection (g), substituted "$375" for "$300" in the first sentence, inserted "based on a minimum sum of $15 a month for each year of creditable service" in that sentence, and substituted "$15" for "$12" in the second sentence. The amendment also added subsections (h) and (i).

The second 1972 amendment substituted

The first 1975 amendment, effective June 30, 1975, substituted "55" for "60" three times in paragraph (4) of subsection (c), twice in the third sentence of paragraph (8) of that subsection, and in subsection (d). The amendment also substituted "$20" for "$15" in the first and second sentences of subsection (g).

Editor's note. — The Retirement Act of 1945 was §§ 37-5-21 — 37-5-35 ACLA 1949, as amended by ch. 29, SLA 1951 and ch. 143, SLA 1953. It was repealed by ch. 145, SLA 1955.

Section 9, ch. 86, SLA 1971, effective July 1, 1971, provides: "Sec. 2 of this Act is retrospective to July 1, 1970."

Legislative committee reports. — For report on ch. 85, SLA 1971 (FCCS SB 39), see 1971 Senate Journal, p. 712. For report on ch. 44, SLA 1972 (HCSSB 290), see 1972 House Journal, p. 881. For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

ALR references. — Services included in computing period of services for purpose of teacher's retirement benefits, 2 ALR2d 1033.

What constitutes "salary," "wages," "pay," or the like, within pension law basing benefits thereon, 14 ALR2d 634.

Sec. 14.25.130. Eligibility for disability retirement. (a) A teacher in membership service who has become permanently disabled, as defined in § 220 of this chapter, before age 55 and who has had five or more membership years may be retired by the administrator as of the first day of the month following the permanent disability. The administrator, after a report of medical examination of the teacher and other information the administrator may request has been submitted, shall certify that the teacher is physically or mentally incapacitated for the further performance of duty, and that the incapacity is likely to be permanent and that the teacher should be retired.

(b) A teacher retired because of disability under this section who subsequently recovers from the disability is not entitled to any disability retirement salary from the first day of the month following recovery.

(c) Once each year during the first five years following retirement of a teacher for disability under this section, and once in each three-year

the age of 65 years to undergo a medical or mental examination by a competent physician or psychiatrist. The administrator shall suspend any disability retirement allowance for a teacher who refuses to undergo a physical or mental examination when requested by the administrator under this section. (§ 14 ch 145 SLA 1955; am § 12 ch 89 SLA 1960; am § 5 ch 86 SLA 1963; am § 8 ch 151 SLA 1966; am § 15 ch 66 SLA 1973; am § 7 ch 173 SLA 1975)

Effect of amendments. — The 1973 amendment, in subsection (a), inserted "as defined in § 220 of this chapter" in the first sentence and "and other information the administrator may request" in the second sentence.

The 1975 amendment, effective June 30, 1975, substituted "age 55" for "age 60" in the first sentence of subsection (a).

"Permanent disability" is the permanent inability to perform a specific function. 1960 Op. Att'y Gen., No. 23.

It is not "total disability." 1960 Op. Att'y Gen., No. 23.

Conditions for disability salary. — The language of this section indicates that the conditions for a disability salary are a permanent disability resulting in physical or mental incapacity for the further performance of duty. 1960 Op. Att'y Gen., No. 23.

For limitations on gainful employment of a teacher receiving a disability retirement annuity under this section, see 1960 Op. Att'y Gen., No. 23.

Sec. 14.25.135. Deferred retirement benefit. (a) A teacher is eligible for a deferred benefit if:

(1) he terminates his employment on or after the date on which his attained age and credited service total at least 70 years;

(2) he has completed at least 15 years of creditable service, the last five years of which have been in membership service; and

(3) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred benefit shall begin on the first day of the month coinciding with or following the teacher's 55th birthday or the first day of the month in which his application for deferred benefit is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the retired teacher occurs.

(c) The monthly amount of a normal deferred benefit shall be determined in accordance with § 120 of this chapter as it is in effect on the date of his termination of employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) A teacher is not entitled to a deferred benefit unless an application for it is filed with the administrator on or after the teacher reaches his early retirement date and before he attains his 70th birthday. If the application is received after his 55th birthday but on or before his 70th birthday, no retroactive payment may be made for the months preceding

Effect of amendments. — The 1971 amendment, in subsection (a)(2), deleted "of which" following "creditable service" and substituted "eight years of which" for "10 years."

The 1975 amendment, effective June 30, 1975, substituted "on" for "in" and "70 years" for "75 years" in paragraph (1) of subsection (a), "the last five years" for "at least eight years" in paragraph (2) of that subsection, and "55th" for "60th" in the first sentence of subsection (b) and in the second sentence of subsection (d), added the second sentence of subsection (c), and substituted "on or after the teacher reaches his early retirement date and before he attains" for "not later than" in the first sentence of subsection (d).

Sec. 14.25.137. Deferred vested retirement benefit. (a) A teacher is eligible for a deferred vested benefit if

(1) he terminates his employment after completing eight years of membership service; and

(2) he does not withdraw his contributions to the retirement fund.

(b) Payment of the deferred vested retirement benefit shall begin on the first day of the month coinciding with or next following the teacher's 55th birthday or the first day of the month in which his application for deferred vested benefit is filed with the administrator, whichever is later. The last payment shall be made as of the first day of the month in which the death of the teacher occurs.

(c) The monthly amount of the deferred vested benefit shall be determined in accordance with § 120 of this chapter as it is in effect on the date of the teacher's termination of his employment, considering the teacher's credited service and compensation before his termination of employment. If his benefit begins before his normal retirement date, the benefit shall be reduced to the actuarial equivalent.

(d) An application for deferred vested benefit shall not be considered unless application is made on or after the teacher reaches his early retirement date and before he attains his 70th birthday. (§ 1 ch 38 SLA 1965, am § 1 ch 218 SLA 1968; am § 6 ch 85 SLA 1971; am § 4 ch 86 SLA 1971; am § 9 ch 173 SLA 1975)

Effect of amendments. — The first 1971 amendment substituted "eight" for "10" in subsection (a)(1).

The second 1971 amendment also substituted "eight" for "10" in subsection (a)(1).

The 1975 amendment, effective June 30, 1975, substituted "55th" for "60th" in the first sentence of subsection (b), added the second sentence of subsection (c) and substituted "on or after the teacher reaches his early retirement date and before he attains his" for "not more than six months before the teacher's 60th birthday and not later than the teacher's" in subsection (d).

Sec. 14.25.138. Notification of intention to retire. A teacher who will be eligible for a deferred benefit under § 135 of this chapter or a deferred vested benefit under § 137 of this chapter shall notify the administrator of his intention to retire. The administrator shall prescribe forms for the notification. (§ 1 ch 38 SLA 1965)

applied for disability retirement salary shall receive from the retirement fund, during each year subsequent to the date of application and certification by the administrator under § 130 of this chapter, a disability retirement salary payable on the first day of each month, beginning the month following the disability.

(b) The payment made on the first day of the month in which the disabled teacher recovers from his disability, dies or attains age 55 constitutes the last payment.

(c) The amount of the disability retirement shall be equal to 50 per cent of the teacher's base salary immediately before his becoming disabled. The disability retirement salary shall be increased by 10 per cent of the teacher's base salary at the date of disability for each minor child, up to a maximum of four minor children, until the first day of the month in which the child ceases to be a minor child or the disability retirement salary terminates, whichever occurs first. (§ 15 ch 145 SLA 1955; am § 5 ch 142 SLA 1957; am § 2 ch 57 SLA 1955; am § 9 ch 151 SLA 1966; am §§ 16, 17 ch 66 SLA 1973; am § 10 ch 173 SLA 1975)

Revisor's note. — See Revisor's note to AS 14.25.120.

Effect of amendments. — The 1973 amendment substituted "during each year" for "for each school year" in subsection (a), inserted "and certification by the administrator under § 130 of this chapter" in that subsection, substituted "the teacher's" for "his" in the first sentence of subsection (c), and inserted "of the teacher's base salary at the date of disability" in the second sentence of that subsection.

The 1975 amendment, effective June 30, 1975, substituted "age 55" for "age 60" in subsection (b).

Sec. 14.25.142. Cost of living allowance. (a) A teacher who resides in the state after his retirement shall receive a cost of living allowance in addition to his retirement salary. The amount of this allowance is determined by multiplying the teacher's retirement salary by a percentage determined by the administrator not to exceed 10 per cent of the retirement salary. The administrator shall implement this section by regulations.

(b) Repealed by § 18 ch 66 SLA 1973. (§ 10 ch 151 SLA 1966; am § 18 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment repealed subsection (b).

Sec. 14.25.143. Post retirement pension adjustment. (a) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase all service retirement and survivor's benefits salaries to reflect this cost of living increase.

(b) The amount of the increase shall be not more than four per cent compounded for each year of retirement. Increases accrue from the first

of July next following the effective date of retirement and shall be paid beginning the first of July of each year.

(c) The administrator is authorized to implement this section by regulation. (§ 11 ch 151 SLA 1966; am § 5 ch 86 SLA 1971; am § 19 ch 66 SLA 1973; am § 3 ch 99 SLA 1974)

Effect of amendments. — The 1971 amendment inserted "compounded" in the first sentence of subsection (b).

The 1973 amendment substituted "all service retirement and survivor's benefits salaries" for "the pension payments" in subsection (a).

The 1974 amendment substituted "not more than four per cent" for "equal to not more than one and one-half per cent" in the first sentence of subsection (b).

Sec. 14.25.145. Interest on individual accounts. Interest shall be credited to each teacher's account at the end of each school year at the rate prescribed by regulation for that year. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 138 SLA 1970; am § 20 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment deleted the former first sentence and substituted "Interest" for "Thereafter, interest" and "each" for "a" in the present first sentence.

Editor's note. — Section 8, ch. 138, SLA 1970, effective July 1, 1970, provides: "Sec. 7 of this Act is retrospective in nature."

Sec. 14.25.150. Payment on withdrawal from system. A teacher leaving membership service is entitled to a refund of his contributions exclusive of his supplemental contributions to the retirement fund as follows:

(1) A teacher leaving membership service shall receive his total accumulated contributions plus interest credited to his individual contribution account, less any amounts owing to the retirement fund because of previous withdrawals.

(2) Repealed by § 22 ch 66 SLA 1973.

(3) If a teacher who has received a refund of contributions is re-employed in membership service, he is, upon his re-employment, indebted to the retirement fund in the amount of the refund, including interest paid him. This indebtedness to the retirement fund shall bear compound interest at the rate prescribed by regulation beginning July 1 following the date of re-employment to the date of repayment or the date of retirement of the teacher, whichever occurs first.

(4) A teacher who has received a refund under the Retirement Act of 1945 is not entitled to any further refunds of the nonrevertible portion of his contribution.

(5) A teacher who has forfeited his claim to any refund under the provisions of the Retirement Act of 1945 because of failure to file a

(6) A teacher's nonrevertible contributions shall apply and be credited to the teacher's account if the teacher resumes membership service and becomes eligible for a retirement salary.

(7) All claims for refund as provided by this section must be by written application. A teacher who has previously forfeited his claim to a refund under the provisions of former legislation because of failure to file a timely application is entitled to a refund upon submitting a written application. (§ 16 ch 145 SLA 1955; am § 6 ch 142 SLA 1957; am § 4 ch 78 SLA 1962; am § 7 ch 86 SLA 1963; am § 12 ch 151 SLA 1966; am § 5 ch 84 SLA 1969; am §§ 21-23 ch 66 SLA 1973)

Revisor's note. — The Retirement Act of 1945 referred to in (4) of this section became §§ 37-5-21 — 37-5-35 ACLA 1949 and was repealed by ch. 145 SLA 1955.

Effect of amendment. — The 1973 amendment substituted "A teacher leaving membership service" for "If a teacher has not been in membership service for more than two years, he" in paragraph (1), inserted "plus interest credited to his individual contribution account" in that paragraph, repealed paragraph (2), substituted "is, upon his re-employment" for "becomes" in the first sentence of paragraph (3), and deleted "if any, increased by the amount, if any, deducted for administrative expenses" at the end of that sentence.

Sec. 14.25.160. Payment upon death of teacher. (a) Upon receipt of a valid claim and proper proof of the death of a member who has not ever made a supplemental contribution or whose supplemental contributions were made for less than one year and who is entitled to a refund of contributions, a payment, in the amount specified in this section shall be paid to a person he has nominated by written designation executed and filed with the administrator. If the member failed to designate a beneficiary, or if no designated beneficiary survives the member, the payment shall be made (1) to his surviving spouse or, if there is none surviving, (2) to his surviving children in equal parts or, if there is none surviving, (3) to his surviving parents in equal parts or, if there is none surviving, (4) to his estate.

(b) If a teacher is in membership service at the time of death and has not received any retirement salary, the amount of the payment is the sum of (1) his accumulated contributions as determined under §§ 145 and 150 of this chapter, and (2) $1,000. plus $100 multiplied by the number of completed school years of membership service, plus an additional sum of $500 if the deceased teacher is survived by one or more minor children at the time of his death. However, in no case may the amount payable under (b) (2) of this section exceed $3,000.

(c) If a teacher has received retirement salary at the time of death, the payment is limited to the amount of his accumulated contributions, plus all interest credited to his account to the date of retirement, less all retirement salary paid the deceased teacher. However, if a teacher dies within one year after the effective date of disability retirement referred to in § 130 of this chapter, the payment on death is the amount

specified in (b) of this section, less the amount of any retirement salary previously paid the deceased teacher.

(d) If a teacher at the time of death is not in membership service and is entitled to a return of his contributions, the accumulated contributions as specified in §§ 145 and 150 of this chapter shall be paid to his designated beneficiary or estate. Further, if a teacher dies within one year after leaving membership service, and is entitled to a return of his contributions and has not received such return on all service, and has not filed a claim for disability retirement, but would have been eligible for disability retirement if claim had been filed, the designated beneficiary or estate is in addition entitled to the payment specified in (b) (2) of this section.

(e) If a teacher receives a refund under this section, it is in lieu of any other benefit under this system. (§ 17 ch 145 SLA 1955; am § 7 ch 142 SLA 1957; am § 13 ch 89 SLA 1960; am § 5 ch 78 SLA 1962; am §§ 13 — 15 ch 151 SLA 1966; am § 6 ch 84 SLA 1969)

Sec. 14.25.162. Survivor's allowance. (a) If a teacher dies while in membership service or while receiving a disability retirement salary or after normal retirement and leaves a minor child, his surviving spouse is entitled to a survivor's allowance if the teacher has made a supplemental contribution for at least one year before his death, but if a guardian has been appointed for a minor child, the guardian is entitled to the allowance. A minor child who has neither a surviving parent nor a guardian is entitled to the allowance. If a minor child who is at least 19 years old but less than 23 years old is out of school for more than one semester, payments of his benefits terminate permanently. A teacher's child who is totally and permanently disabled before he is 19 years old or, if he is attending school and becomes totally and permanently disabled before he is 23 years old, and who is financially dependent on the teacher at the time of the teacher's death is entitled to the benefits under this section until he dies or is no longer totally and permanently disabled. Application for the survivor's allowance shall be made in writing to the administrator.

(b) The amount of the survivor's allowance shall be equal to either (1) 10 per cent of the teacher's base salary immediately before his death or after normal retirement or becoming disabled for each minor child, or (2) 40 per cent of the base salary, whichever is less. In addition, an allowance of 35 per cent of the teacher's base salary shall be paid to his spouse if the spouse is entitled to the survivor's allowance and is not remarried, and an allowance of 10 per cent of the base salary shall be paid to a guardian entitled to the survivor's allowance. Neither the remarriage of a surviving spouse nor the adoption of a minor child by a new spouse of a surviving spouse will bar the minor child from

additional allowance, shall be paid according to the number of minor children assigned to each guardian.

(c) The survivor allowance is payable on the first day of each month, beginning the month following the death of a teacher. The survivor allowance shall be recomputed on the first day of the month in which the number of minor children is less than four and the pension shall be decreased accordingly. The payment on the first day of the month in which the last minor child ceases to be a minor or dies constitutes the last payment.

(d) In the event of termination of the survivor's allowance and in the absence of a spouse who has or will be eligible for a spouse's pension, a payment of the amount of the teacher's accumulated contributions, plus all interest credited to his account to the date of death or retirement, whichever occurs first, plus an amount equal to 75 per cent of the payment that would have been made on the death of a teacher under § 160(b) (2) of this chapter will be made if the teacher has had less than 20 years of membership service or 100 per cent of the payment that would have been made on the death of the teacher under § 160(b) (2) of this chapter if the teacher has completed 20 or more years of membership service, less all payments to the teacher, spouse, guardian or minor children shall be made to the person he has nominated by written designation executed and filed with the administrator. If the member failed to designate a beneficiary, or if no designated beneficiary survives the member, the payment shall be made (1) to his surviving spouse, or, if there is none surviving, (2) to his surviving children in equal parts, or if there is none surviving, (3) to his surviving parents in equal parts or, if there is none surviving, (4) to his estate. This payment shall be on the same terms and conditions as a payment made on the death of a teacher.

(e) A person entitled to the survivor's allowance under this section and who resides in the state after the death of the teacher shall receive a cost of living allowance in addition to his survivor's allowance. The amount of this allowance shall be the amount determined by the administrator under § 142 of this chapter. The administrator may implement this subsection by regulations.

(f) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase the survivor's allowance to reflect this cost of living increase. The amount of the increase shall be the amount determined by the administrator under § 143 of this chapter. Increases accrue from the first of July next following the death of the teacher and shall be paid beginning the first of July of each year. The administrator is authorized to implement this subsection by regulation. (§ 16 ch 151 SLA 1966; am [illegible])

Effect of amendments. — The 1971 amendment substituted "parent" for "spouse" in the second sentence of subsection (a).

The 1972 amendment added the fourth sentence in subsection (a).

The 1973 amendment rewrote the second sentence of subsection (e), deleted the fourth sentence of that subsection, and substituted "the amount determined by the administrator under § 143 of this chapter" for "equal to not more than one and one-half per cent for each year after the death of the teacher" at the end of the second sentence of subsection (f).

Legislative committee report. — For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

Sec. 14.25.164. Spouse's pension. (a) If a teacher dies while in membership service or while receiving a service or disability retirement salary, or is receiving or is entitled to receive a deferred or a deferred vested benefit, the surviving spouse is entitled to a spouse's pension if he or she has not remarried and if the teacher has made supplemental contribution for at least one year before his death. Application for the spouse's pension shall be made in writing to the administrator.

(b) The spouse's pension is payable on the first day of each month, commencing with the first day of the month coinciding with or next following the month in which the spouse attains age 55, unless the spouse is totally and permanently disabled, as defined in § 220 of this chapter, before age 55. If the spouse is totally and permanently disabled from engaging in a regular remunerative occupation or employment, the spouse's pension shall commence on the first of the month coinciding with or next following the teacher's death, or the date of disability, whichever is later. If the spouse ceases to be totally and permanently disabled before age 55, the pension shall be suspended until the spouse again becomes eligible for the pension because of age. The payment on the first day of the month in which the spouse dies or remarries constitutes the last payment.

(c) The amount of the spouse's pension shall be equal to 50 per cent of the service retirement salary that the deceased teacher was receiving, or would have received, based on his base salary and creditable service to the date of his death and assuming that he would have been eligible for a service retirement salary as of that date.

(d) In the event of the death of a teacher's spouse before the time the total payments to the teacher, spouse, guardian or minor children have not been at least equal to the amount of his accumulated contributions, plus all interest credited to his account to the date of death or retirement, whichever occurs first, a payment equal to the difference shall be made to the spouse's estate or to a person the spouse has nominated by written designation executed and filed with the administrator. This payment shall be on the same terms and conditions as a payment upon death of a teacher.

(e) A person entitled to the spouse's pension under this section and

under § 142 of this chapter. The administrator may implement this subsection by regulation.

(f) When the administrator determines that the cost of living has increased and that the financial condition of the retirement fund permits, he may increase the spouse's pension to reflect this cost of living increase. The amount of the increase shall be determined by the administrator under § 143 of this chapter. Increases accrue from the first of July next following the death of the teacher and shall be paid beginning the first of July of each year. The administrator is authorized to implement this subsection by regulation. (§ 17 ch 151 SLA 1966; am §§ 10—12 ch 84 SLA 1969; am § 19 ch 69 SLA 1970; am §§ 26-28 ch 66 SLA 1973; am § 11 ch 173 SLA 1975)

Effect of amendments. — The 1973 amendment inserted "as defined in § 220 of this chapter" in the first sentence of subsection (b), rewrote the second sentence of subsection (e), deleted the fourth sentence of that subsection, and substituted "determined by the administrator under § 143 of this chapter" for "equal to not more than one and one-half per cent for each year after the death of the teacher" at the end of the second sentence of subsection (f).

The 1975 amendment, effective June 30, 1975, in subsection (b), substituted "age 55" for "age 60" twice in the first sentence and once in the third sentence.

Legislative committee report. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7.

Sec. 14.25.168. Medical benefits. Each person who is entitled to receive a monthly benefit from the retirement system shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available prior to reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 18 ch 151 SLA 1966; am § 1 ch 200 SLA 1975)

Effect of amendment. — The 1975 amendment, effective July 1, 1975, rewrote this section.

Legislative committee report. — For report on ch. 200, SLA 1975 (HCSSB 196 am H), see 1975 Senate Journal, p. 695.

Sec. 14.25.169. Duplicate benefits. If payments from this retirement system are due to a teacher or his spouse under more than one provision of this plan, the teacher or spouse shall elect under which provision and which benefit he wishes to receive and no payments may be made under any other provision. However, benefits under §§ 162 and 164 of this chapter shall be paid to a surviving spouse in addition to those benefits he is entitled to receive because of his own membership in the retirement system. (§ 19 ch 151 SLA 1966; am § 2 ch 184 SLA 1972)

Sec. 14.25.170. Administration. The commissioner of administration is responsible for the administration of the retirement system and for making the provisions of this chapter effective and his powers and duties for this purpose include but are not limited to

(1) maintaining the accounts of the system;

(2) making payments for the various purposes specified;

(3) submitting such periodic reports or statements of account as may be required;

(4) prescribing by regulation the rate of interest that shall be credited to the individual contribution accounts of teachers each year; the rate of interest shall be adopted on the basis of the probable effective rate of interest on a long-term basis, and the rate may be changed from time to time by subsequent regulation. (§ 14 ch 89 SLA 1960; am § 6 ch 78 SLA 1962)

Sec. 14.25.180. Custody and investment. (a) The commissioner of revenue is the treasurer of the system and has powers and duties for this purpose including but not limited to the following:

(1) to act as official custodian of the cash and securities belonging to the system and provide adequate safe deposit facilities for them;

(2) to receive all items of cash belonging to the system;

(3) to collect the interest and principal on securities acquired by the system and deposit the interest and principal in the retirement fund;

(4) to invest and reinvest the assets of the retirement fund in accordance with this section.

(b) When, in the opinion of the commissioner of administration, there is on hand in the retirement fund a surplus over and above a reasonably safe amount to take care of current demands upon the fund, the surplus or so much of it as in the judgment of the commissioner of administration is considered proper may be invested by the commissioner of revenue in (1) bonds or other interest-bearing obligations and securities of the United States or an agency of the United States, a state of the United States, or a political subdivision of any state of the United States, if the political subdivision has a population as shown by the last federal census preceding the investment of no less than 30,000 inhabitants, except no population limitation applies to a political subdivision of this state; (2) first lien real estate mortgage securities insured by the Federal Housing Administration under the National Housing Act of the United States, or held by the Department of Commerce, or the Department of Natural Resources; (3) corporation bonds, and preferred and common stocks as the commissioner of revenue considers proper investments for the funds; (4) shares of federally chartered savings and loan associations in Alaska, to the extent that the investment is insured by the federal government or by an agency of the federal government; (5) deposits with mutual savings banks in Alaska, to the extent that the investment is

extent that the investment is insured by the federal government or an agency of the federal government; (7) loans guaranteed by the division of veterans' affairs under AS 26.15.040(b); (8) [deleted] (9) the guaranteed portion of Small Business Administration loans; (10) first lien real estate mortgages guaranteed by the federal Veterans Administration; (11) notes secured by mortgages of commercial or residential real estate or other security if the mortgages are insured by a corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least $20,000,000; (12) conventional residential mortgages if the originating financial institution retains at least 25 per cent of the mortgage for a minimum of two years; (13) notes secured by mortgages of commercial real estate if the originating financial institution retains at least 25 per cent of the mortgage; (14) FHA guaranteed portion of business and industrial loans made under the Rural Development Act of 1972; (15) guaranteed portion of loans made under the Federal Ship Financing Act of 1972. No more than 25 per cent of the surplus may be invested in mortgage securities of the Department of Commerce, and the state shall appropriate sufficient money from the general fund to reimburse the teacher's retirement system for any losses incurred as a result of failure of the obligors to pay on the notes. No more than $400,000 of the surplus may be invested annually in the mortgage securities of the Department of Natural Resources, and the state shall appropriate sufficient money from the general fund to reimburse the teachers' retirement system for any losses incurred as a result of failure of the obligors to pay on the notes.

(c) In making investments the commissioner of revenue shall exercise the judgment and care under the circumstances then prevailing which men of ordinary prudence, discretion, and intelligence exercise in the management of their own affairs not in regard to speculation but in regard to the permanent disposition of their funds, considering the probable income therefrom as well as the probable safety of their capital. However, no more than 50 per cent of the retirement fund may be invested at any given time in corporate stocks and bonds, nor may more than five per cent of the voting stock of any corporation be owned. Stocks eligible for purchase are restricted to stocks which, except for bank stocks and insurance stocks, are listed upon an exchange registered with the Federal Securities and Exchange Commission.

(d) Except as provided above, the commissioner of revenue may:

(1) invest and reinvest the principal and income of the retirement fund without distinction between principal and income;

(2) sell, exchange, convey, transfer or otherwise dispose of any investment of the retirement fund held in the name of the system by private contract or at public auction;

exercise conversion privileges, subscription rights or other options and make payments incidental thereto; consent to or otherwise participate in corporate reorganizations or other changes affecting corporate securities and delegate discretionary powers and pay assessments or charges in connection therewith; and generally exercise the powers of an owner with respect to stocks, bonds, securities or other investments held in the retirement fund;

(4) make, execute, acknowledge and deliver documents of transfer and conveyance and other instruments necessary or appropriate to carry out the powers granted by this subsection;

(5) register investments in the name of the system;

(6) do all acts whether or not expressly authorized which he considers necessary or proper for the protection of the investments held in the retirement fund.

(e) To qualify as a mortgage which may be purchased under (b) (12) and (13) of this section, the mortgage must

(1) have as a mortgagor an Alaska resident,

(2) be certified by the originating financial institution that the loan being sold has been made in compliance with the law and that liens supporting the loan have been perfected;

(3) have been closed after April 16, 1974, and no loan may be eligible for purchase that is held by the originating institution for a period greater than 90 days.

(f) When more than one-half of one per cent of the aggregate of all loans purchased from a financial institution becomes delinquent for 60 days, the pension fund shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than one-half of one per cent. (§ 19 ch 145 SLA 1955; am § 15 ch 89 SLA 1960; am § 1 ch 128 SLA 1961; am § 1 ch 90 SLA 1962; am § 3 ch 4 SLA 1964; am §§ 1, 2 ch 66 SLA 1964; am § 1 ch 110 SLA 1964; am § 1 ch 55 SLA 1967; am § 3 ch 73 SLA 1969; am §§ 1, 2 ch 17 SLA 1970; am § 1 ch 112 SLA 1972; am § 26 ch 53 SLA 1973; am §§ 1, 2 ch 25 SLA 1974)

Effect of amendments. — The 1972 amendments substituted "and (9) the guaranteed portion of Small Business Administration loans" for "and (8) mutual funds" at the end of the first sentence in subsection (b).

The 1973 amendment, in subsection (c), deleted "mutual funds and" preceding "corporate stocks" in the second sentence, inserted "and" in the third sentence, and deleted "and shares in mutual funds" following "insurance stocks" in that sentence.

The 1974 amendment deleted item (8) and added items (10) — (15) in the first sentence of subsection (b) and added subsections (e) and (f).

Legislative committee reports. — For report on ch. 73, SLA 1969 (CSHB 278 am), see 1969 House Journal, p. 745. For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885. For report on ch. 25, SLA 1974 (CSHB 253 [Jud] am S), see 1974 House Journal, p. 481.

Sec. 14.25.190. Actuarial evaluations of the retirement fund.

of not more than five years and on the basis of the reevaluations the administrator may recommend any necessary readjustment to the legislature. Actuarial and financial experience analyses shall be prepared and certified by a member of the American Academy of Actuaries. (§ 21 ch 145 SLA 1955; am § 16 ch 89 SLA 1960; am § 29 ch 66 SLA 1973)

Effect of amendment. — The 1973 amendment added the second sentence.

Sec. 14.25.200. Exemption from taxation and process. Teachers' retirement salaries and other amounts held in the retirement fund on behalf of the teachers are exempt from state and municipal taxes and are not subject to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, charge, garnishment, execution or levy of any kind, either voluntary or involuntary before they are received by the person entitled to the amount under the terms of the system, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, charge, or otherwise dispose of any right to amounts accrued in the retirement fund shall be void. (§ 22 ch 145 SLA 1955; am § 17 ch 89 SLA 1960; am § 13 ch 84 SLA 1969)

Cross reference. — As to other property exempt from execution, see AS 09.35.080.

Sec. 14.25.205. Time limit for application. If no application for benefits or for refund has been filed by July 1 following the date on which the member would attain age 75, no benefits or refunds may be paid under this chapter and the member's records may be destroyed. (§ 14 ch 84 SLA 1969)

Sec. 14.25.210. Penalty for false statements. A person who wilfully or knowingly makes a false statement, or falsifies or permits to be falsified any record of the retirement system, is guilty of a misdemeanor and, upon conviction, is punishable by a fine of not more than $500 or by imprisonment for not more than six months, or by both, and forfeits all rights under this chapter. (§ 20 ch 145 SLA 1955)

Sec. 14.25.220. Definition of terms. In this chapter unless the context otherwise requires

(1) "administrator" means the Department of Administration;

(2) "base salary" or "basic salary" means any remuneration accrued under a contract to a teacher for professional services rendered during any school year; for purposes of § 50 of this chapter, base salary accrued includes any payments made after June 30 of a school year for services

(3) "creditable service" means outside and Bureau of Indian Affairs (BIA) service not exceeding 15 years, with outside service limited to 10 years, plus all membership service as provided in (5) of this section;

(4) "employer" means a public school district, the Board of Regents of the University of Alaska, or the Department of Education,

(5) "membership service" means service as a teacher in a public school within the Territory or State of Alaska, or both, under the supervision and control of the Territorial Board of Education or the Department of Education, the school board of any city or borough school district, or the Board of Regents of the University of Alaska, or any period during which the teacher is on an approved sabbatical leave granted in accordance with AS 14.20.310 or is receiving a disability retirement salary;

(6) "military service" means service in the armed forces of the United States after January 1, 1940;

(7) "nonrevertible funds" means that portion of a teacher's contribution not subject to a refund;

(8) "outside service" means service as

(A) a full-time elementary or secondary teacher in out-of-state public schools; or

(B) a full-time elementary or secondary teacher in an out-of-state approved or accredited nonpublic school; or

(C) a full-time teacher in an institution of higher learning accredited by a nationally recognized accrediting agency;

(D) a full-time elementary or secondary teacher in an approved and accredited nonpublic school in Alaska.

(9) "retirement fund" means the fund consisting of all matching contributions by city school districts, money made available by appropriations of the state legislature, and from other appropriated funds, all contributions from whatever source, and income and interest derived from the investment of money;

(10) "retirement salary" means the money received by a retired teacher from the fund;

(11) "Retirement System of 1945" and "Retirement Fund of 1945," or like terms mean the system and fund established by §§ 37-5-21 — 37-5-35, ACLA 1949, as amended;

(12) "salary authorized" means that salary fixed by the State Board of Education and the Department of Education under law; or, if an employee of the Department of Education, University of Alaska, or a community college, the salary paid to the employee;

(13) "school year" means the 12 month period beginning July 1 of each year and ending June 30 of the following year;

(14) "minor child" means a child or children of the member, including

obligated to support at the time of his death or under 23 years old and registered at and attending on a full-time basis an accredited educational or a technical institution recognized by the state Department of Education and whom the teacher, if living, is supporting or, if dead, was supporting at the time of his death;

(15) "teacher" or "member" means a certified teacher, certified school nurse, principal, supervisor, or superintendent employed on a full-time or a part-time basis in a position having duties which normally require a year of service in the public schools of the state, the commissioner of education, supervisors within the Department of Education, and all full-time resident professional and administrative personnel of the University of Alaska; in case of doubt, the administrator shall finally determine whether or not a person is a teacher as defined in this chapter;

(16) "year of service" means membership service during the dates set for a school term under AS 14.03.030; fractional credit shall be given for membership service after July 1, 1967, during any school year as follows: (A) less than nine days, no credit; (B) nine days or more but less than 27 days, 0.1 years; (C) 27 days or more but less than 45 days, 0.2 years; (D) 45 days or more but less than 63 days, 0.3 years; (E) 63 days or more but less than 81 days, 0.4 years; (F) 81 days or more but less than 100 days, 0.5 years; (G) 100 days or more but less than 118 days, 0.6 years; (H) 118 days or more but less than 136 days, 0.7 years; (I) 136 days or more but less than 154 days, 0.8 years; (J) 154 days or more but less than 172 days, 0.9 years; (K) 172 days or more, 1.0 years; if service is performed on a part-time basis, one-half credit shall be given for each day of service;

(17) "BIA service" means service as a teacher in a school operated by the Bureau of Indian Affairs in Alaska;

(18) "full-time teaching" means teaching on a regular basis for the normal and customary work period per day or week at a particular teaching assignment; excluding teaching on a substitute temporary or per diem basis;

(19) "public school" means a school operated by publicly elected or appointed school officials in which the program and activities are under the control of these officials and which is supported by public funds;

(20) "nonpublic school" means a school established by an agency other than a state or its subdivisions which is primarily supported by other than public funds, and the operation of whose program rests with other than publicly elected or appointed officials, and which offers grades kindergarten through 12, or any combination of them, and is state approved or accredited;

(21) "part-time basis" means teaching on a regular basis for part of the normal and customary work period per day or week or month at a

(22) "average base salary" means the highest average base salary during any three of the last 10 years of membership service or the member's total period of membership service, whichever is less; the base salary in any school year for which the member receives less than two-thirds of a year of credit shall not be included in the determination of the average; if two-thirds or more of a year of service credit is granted, the full year's salary shall be included in the determination of the average.

(23) "normal retirement" means retirement after:

(A) completing at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, and attaining the age of 55 years; or

(B) completing at least eight years of membership service and attaining the age of 55 years; or

(C) completing at least 25 years of creditable service, the last five of which are membership service; or

(D) at least 20 years of membership service;

(24) "early retirement" means retirement after attaining the age of 50 years and completing either:

(A) at least 15 years of creditable service, the last five of which have been membership service, except that a member first hired after July 1, 1975 must have eight years of membership service, or

(B) at least eight years of membership service;

(25) "compulsory retirement" means involuntary retirement after attaining the age of 65 and completing either 15 years of creditable service, the last five of which have been membership service, or eight years of membership service, and failure of the teacher's employer to request that the teacher be retained;

(26) "permanent disability" means a physical or mental condition which, in the judgment of the administrator, based upon medical reports and other evidence satisfactory to the administrator, presumably prevents an employee from satisfactorily performing his usual duties for his employer or the duties of another position or job which an employer makes available and for which the employee is qualified by training or education. (§ 2 ch 145 SLA 1955; am § 1 ch 142 SLA 1957; am § 2 ch 89 SLA 1960; am § 7 ch 179 SLA 1960; am §§ 1,2 ch 78 SLA 1962; am §§ 8 — 12 ch 86 SLA 1963; am § 1 ch 111 SLA 1965; am §§ 20 —22 ch 151 SLA 1966; am § 1 ch 76 SLA 1968; am §§ 15 — 19 ch 84 SLA 1969; am § 21 ch 46 SLA 1970; am §§ 13 — 18 ch 138 SLA 1970; am §§ 3 — 5 ch 229 SLA 1970; am §§ 16 —18 ch 32 SLA 1971; am §§ 6 — 8 ch 86 SLA 1971; am §§ 30 — 33 ch 66 SLA 1973; am § 3 ch 57 SLA 1974; am § 21 ch 127 SLA 1974; am §§ 12, 13 ch 163 SLA 1975)

Revisor's note (1970). — AS 14.25.220(8) two amendments appear to be inconsistent,

Chapter 25. Retirement and Death Benefits.

Article
1. Justices and Judges (§§ 22.25.010 — 22.25.090)

Article 1. Justices and Judges.

Section
10. Retirement of justices and judges
20. Retirement pay
30. Survivors' benefits
40. [Repealed]
45. Appropriations
50 — 70. [Repealed]
80. Tax exemption
90. Medical benefits

Sec. 22.25.010. Retirement of justices and judges. (a) A justice or judge shall be retired on the date that he reaches the age of 70. He is eligible for retirement pay if he has had five or more years of service at the time of retirement as a justice or judge.

(b) A justice or judge may be retired for incapacity as provided by law. He is eligible for retirement pay if he has had two or more years of service at the time of retirement for incapacity. The effective date of retirement under this subsection is the first day of the month coinciding with or after the date upon which the governor with respect to a justice, or the supreme court with respect to a judge files with the commissioner of administration a written declaration to the effect that a designated justice or judge was retired for incapacity. A duplicate copy of the declaration shall be filed with the Judicial Council.

(c) A justice or judge who served for a period of five years, and who believes that he has become so incapacitated as to prevent him from efficiently performing his judicial duties may file with the governor a written application for retirement which contains a sworn statement of his service and of his incapacity. When an application is filed, the governor shall appoint a board of three persons to inquire into the circumstances, and may, upon the board's recommendation, retire the justice or judge. The effective date of the retirement shall be as provided in (b) of this section.

(d) A justice or judge may voluntarily retire at any time and shall have a vested right to his accrued retirement pay if he has served five or more years. Retirement pay shall not commence until he has reached age 60; except that an actuarially equivalent retirement pay may be commenced after he has reached age 55 or upon his serving 20 years as a justice or judge. The provisions of (b) of this section are an exception to this rule. A justice or judge desiring to retire under this subsection shall file with the governor a notice of his desire, together with a sworn statement of the facts establishing his eligibility to retire. The governor shall certify those facts to the commissioner of administration and declare, in writing, the eligibility or ineligibility for retirement of the justice or

of the governor is filed with the commissioner of administration. If a justice or judge is not eligible to receive retirement pay at the time of his retirement, his retirement pay shall commence on the first day of the month he reaches age 60 or the month he becomes eligible for an actuarial equivalent if he has applied for this option.

(e) Repealed by § 16 ch 83 SLA 1967, effective July 1, 1967.

(f) In the computation of service for retirement under §§ 10 — 70 of this chapter, the time served by a justice or judge of any court is added to the time served by him, if any, on any other court. All service rendered by a justice or judge, including service as a magistrate or deputy magistrate, before July 1, 1967 shall be included in the computation.

(g) The word "justice" means a supreme court justice, and the word "judge," unless the context clearly indicates otherwise, means a superior court or district court judge. (§ 1 ch 102 SLA 1963; am §§ 6 — 10, 16 ch 83 SLA 1967; am § 1 ch 160 SLA 1972; am § 2 ch 196 SLA 1976)

Effect of amendments. — The 1972 amendment in subsection (d), substituted "60" for "65" in the second sentence, substituted "55" for "60" in that sentence, and substituted "60" for "65" in the seventh sentence.

The 1976 amendment substituted "including service as a magistrate or deputy magistrate, before July 1, 1967" for "before the effective date of §§ 10 — 70 of this chapter" in the second sentence of subsection (f).

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.020. Retirement pay. A retired justice or judge eligible for retirement pay shall receive from the date of his eligibility until his death monthly compensation equal to five per cent per year of service, to a maximum of 75 per cent, of the monthly salary authorized for justices and judges, respectively, at the time each retirement payment is made. (§ 1 ch 102 SLA 1963; am § 11 ch 83 SLA 1967)

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.030. Survivors' benefits. (a) Upon the death of a justice or judge who has served for at least two years, the surviving spouse is entitled to receive monthly compensation equal to one-half of the monthly retirement pay the justice or judge would thereafter have been entitled to receive if retired at the time of death. If at death the justice or judge was not yet entitled to retirement pay, or was or would have been entitled to less than 60 per cent of the monthly salary authorized for his office, the surviving spouse is entitled to monthly compensation equal to 30 per cent of the salary authorized for justices or judges, respectively, at the time each monthly payment is made.

(b) To be eligible for the survivors' benefits, the surviving spouse must have been married to the justice or judge for at least two years immediately preceding the death of the justice or judge. The benefits continue until the remarriage or death of the surviving spouse.

(c) If there is no surviving spouse, or if the surviving spouse does not meet the requirements of (b) of this section, or upon the remarriage or death of the surviving spouse, the surviving dependent child or children of the justice or judge are entitled to receive in equal shares 50 per cent of the amount of the survivors' benefits specified under (a) of this section.

(d) The surviving child or children are entitled to the survivors' benefits under (c) of this section during the period of their dependency. Dependency exists with respect to any child of a justice or judge who is either (1) a minor under the laws of Alaska, (2) under the age of 23 and is a student attending on a full-time basis an accredited educational or technical institution recognized by the state Department of Education, or (3) so mentally or physically incapacitated as to be unable to provide for self care.

(e) If there are both an eligible surviving spouse and surviving dependent children, but who reside in separate households, the surviving spouse and dependent children will share equally in the benefits payable under (a) of this section. (§ 1 ch 102 SLA 1963; am § 12 ch 83 SLA 1967; am § 2 ch 160 SLA 1972)

Effect of amendment. — The 1972 amendment rewrote this section.

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.040. Refund of contributions.

Repealed by § 16 ch 83 SLA 1967.

Editor's note. — The repealed section derived from § 1, ch. 102, SLA 1963.

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.045. Appropriations. An estimated amount sufficient to pay all benefits anticipated to be paid under this chapter in each fiscal year shall be included in the annual appropriation for the state court system. If the actual authorized benefits necessary to be paid in any fiscal year exceed the sum appropriated, the benefits due shall nevertheless be paid from general funds of the state not otherwise appropriated. (§ 13 ch. 83 SLA 1967)

Legislative committee report. — For

Sec. 22.25.050. Financing and administration.

Repealed by § 16 ch 83 SLA 1967

Editor's note. — The repealed section derived from § 1, ch. 102, SLA 1963.

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.060. Contributions.

Repealed by § 16 ch 83 SLA 1967.

Editor's note. — The repealed section derived from § 1, ch. 102, SLA 1963.

Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.070. Transfer of contributions.

Repealed by § 16 ch 83 SLA 1967.

Editor's note. — The repealed section derived from § 1, ch. 102, SLA 1963.

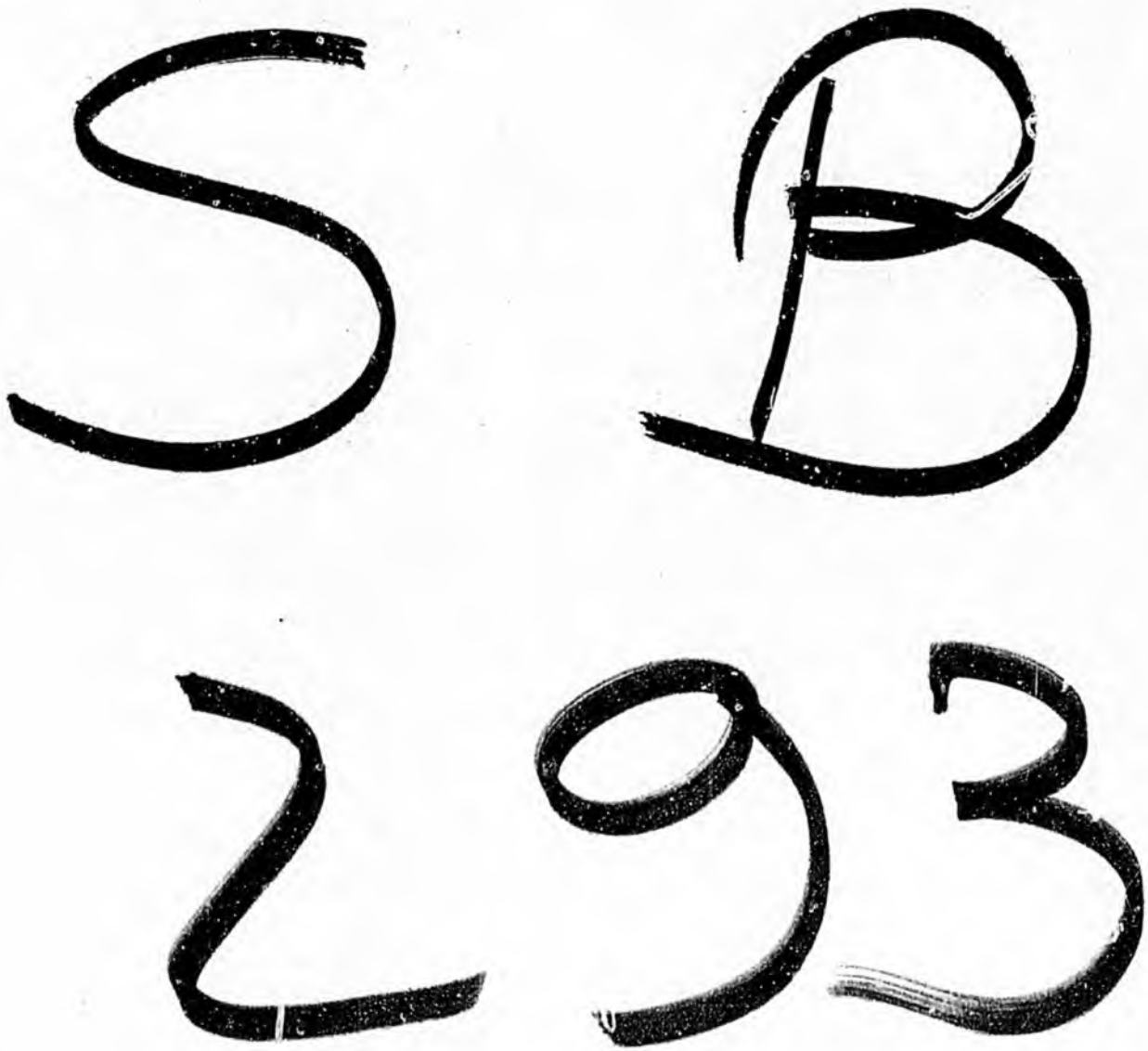
Legislative committee report. — For report on ch. 83, SLA 1967 (HB 141), see 1967 House Journal, pp. 339-340.

Sec. 22.25.080. Tax exemption. Benefits paid under this chapter are exempt from state and municipal income taxes. (§ 4 ch 160 SLA 1972)

Sec. 22.25.090. Medical benefits. Each person who is entitled to receive a monthly benefit from the retirement system under this chapter shall be provided with major medical insurance coverage. Coverage shall become effective on the same date as retirement benefits commence and cease when the retired employee or survivor is no longer eligible to receive a monthly benefit. The level of coverage for persons over age 65 shall be the same as that available before reaching age 65 except that the benefits payable shall be supplemental to those afforded under the federal Old Age Survivor and Disability Insurance Program, if any. (§ 4 ch 245 SLA 1976)

Chapter 28. Contributory Judicial Retirement System.

Section		Section	
10.	Application	80.	Tax exemption
20.	Administration	90.	Appropriations
30.	Regulations	100.	Accounting
40.	Contributions	110.	Refunds
50.	Retirement of justices and judges	120.	Prior service credit
60.	Retirement pay	130.	Medical benefits
70.	Survivors' benefits		


SB
293

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

March 31, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Room 207 - Capitol Building
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 293

Senate Bill No. 293, an Act affecting taxes on banking institutions, was introduced in the Senate on March 16, 1981 and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Gary L. Jenkins, Director, Audit Division and Mr. Lance Rovig, Economist, Research Section, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Gary L. Jenkins, Director
Audit Division
Department of Revenue

Lance Rovig, Economist
Research Section
Department of Revenue

04-D2LH

MEMORANDUM State of Alaska

TO: R. D. Stevenson
Legislative Assistant

DATE: March 26, 1981

FILE NO:

TELEPHONE NO:

SUBJECT: SB 293

FROM: Gary L. Jenkins
Director
Audit Division

This bill would tax banks under AS 43.20 based on their federal taxable income at a rate of 28.6%. For clarity, if this bill is to be enacted into law, a definition of bank should be added to the law to specify who is to be taxed under this provisio

Section 2 of the bill appears to have a word error in that it refers to interest rates in line 13, while it would appear to mean tax rate. If that is the intention then the language of the bill should be amended.

Section 3 of the bill repeals the provision in AS 43.20 which exempts banks and other financial institutions from the corporate income tax. It appears, however, that the author of the bill is not aware of the fact that banks are taxed under AS 43.70. This bill would leave them taxable under that chapter as well as chapter 20. Further, under chapter 70 the banks are taxable at the rate of 7% of their federal taxable income plus all of their non-taxable income.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. S B 293

Title An Act affecting taxes on banking institutions

Requested by Labor and Commerce Committee Date March 24, 1981

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected Revenue Collection and Management

BRU, Program, or Subprogram(s) Affected

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND		$5.5	$6.1	$6.7	$7.3	
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

S.B. 293, if enacted, would require banks to pay corporate income taxes of 28.6% on net income as defined under AS 43.20; or, approximately $5.5 million in FY 82, $6.1 million in FY 83, $6.7 million in FY 84 and $7.3 million in FY 85. Banks would also be required to pay a tax of 7% on net income as defined under AS 43.70.

IV. DATE March 24, 1981 PREPARED BY Lance Rovig, Economist

AGENCY Revenue

PHONE 465-2390

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 293
Title An Act affecting taxes on banking institutions.
Requested by Senate Labor & Commerce Committee Date March 17, 1981

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collections & Management
BRU, Program, or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) -NONE-

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars) -NONE-

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS -NONE-

FULL TIME						
PART TIME						
TEMPORARY						

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

See attached memo to R. D. Stevenson dated March 26, 1981.

IV. DATE March 27, 1981 PREPARED BY Gary L. Jenkins
AGENCY Audit Division
PHONE (907) 465-2320

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

33-001 (Rev. 12/79)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 293:

A tax of 28.6% shall be imposed on all banks (doing business in the State) upon the entire taxable income of those banks. The provisions of this tax are to supersede the provisions of other statutes covering taxation of banks or savings and loan associations chartered by the Federal Government or the State. Repeals AS 43.20.031(d).

Sec. 43.20.011. Tax on individuals, fiduciaries, and corporations. (a) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident individual and fiduciary of the state, except those qualifying for the rates in (b) or (c) of this section, taxes computed according to the following table.

If the taxable income is:	Then the tax is:
Not over $2,000	3 per cent of the taxable income
Over $2,000 but not over $4,000	$60 plus 3.5 per cent of excess over $2,000
Over $4,000 but not over $6,000	$130 plus 4.0 per cent of excess over $4,000
Over $6,000 but not over $8,000	$210 plus 5.0 per cent of excess over $6,000
Over $8,000 but not over $10,000	$310 plus 5.5 per cent of excess over $8,000
Over $10,000 but not over $12,000	$420 plus 6.0 per cent of excess over $10,000
Over $12,000 but not over $14,000	$540 plus 7.0 per cent of excess over $12,000
Over $14,000 but not over $16,000	$680 plus 7.5 per cent of excess over $14,000
Over $16,000 but not over $18,000	$830 plus 8.0 per cent of excess over $16,000
Over $18,000 but not over $20,000	$990 plus 8.5 per cent of excess over $18,000
Over $20,000 but not over $22,000	$1,160 plus 9.0 per cent of excess over $20,000
Over $22,000 but not over $26,000	$1,340 plus 9.5 per cent of excess over $22,000
Over $26,000 but not over $32,000	$1,720 plus 10.0 per cent of excess over $26,000
Over $32,000 but not over $38,000	$2,320 plus 10.5 per cent of excess over $32,000
Over $38,000 but not over $44,000	$2,950 plus 11.0 per cent of excess over $38,000
Over $44,000 but not over $50,000	$3,610 plus 11.5 per cent of excess over $44,000
Over $50,000 but not over $60,000	$4,300 plus 12.0 per cent of excess over $50,000
Over $60,000 but not over $70,000	$5,500 plus 12.5 per cent of excess over $60,000
Over $70,000 but not over $80,000	$6,750 plus 13.0 per cent of excess over $70,000
Over $80,000 but not over $90,000	$8,050 plus 13.5 per cent of excess over $80,000
Over $90,000 but not over $100,000	$9,400 plus 14.0 per cent of excess over $90,000
Over $100,000 but not over $150,000	$10,800 plus 14.0 per cent of excess over $100,000
Over $150,000 but not over $200,000	$17,800 plus 14.5 per cent of excess over $150,000

(b) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident married individual who makes a single return jointly with his spouse (as provided in section 6013 of the Internal Revenue Code) and upon every resident, nonresident and part-year resident surviving spouse (as defined in section 2(a) of the Internal Revenue Code) taxes computed according to the following table.

If the taxable income is:	Then the tax is:
Not over $4,000	3 per cent of the taxable income
Over $4,000 but not over $8,000	$120 plus 3.5 per cent of excess over $4,000
Over $8,000 but not over $12,000	$260 plus 4.0 per cent of excess over $8,000
Over $12,000 but not over $16,000	$420 plus 5.0 per cent of excess over $12,000
Over $16,000 but not over $20,000	$620 plus 5.5 per cent of excess over $16,000
Over $20,000 but not over $24,000	$840 plus 6.0 per cent of excess over $20,000
Over $24,000 but not over $28,000	$1,080 plus 7.0 per cent of excess over $24,000
Over $28,000 but not over $32,000	$1,360 plus 7.5 per cent of excess over $28,000
Over $32,000 but not over $36,000	$1,660 plus 8.0 per cent of excess over $32,000
Over $36,000 but not over $40,000	$1,980 plus 8.5 per cent of excess over $36,000

If the taxable income is:	Then the tax is:
Over $40,000 but not over $44,000	$2,320 plus 9.0 per cent of excess over $40,000
Over $44,000 but not over $52,000	$2,680 plus 9.5 per cent of excess over $44,000
Over $52, 000 but not over $64,000	$3,440 plus 10.0 per cent of excess over $52,000
Over $64,000 but not over $76,000	$4,640 plus 10.5 per cent of excess over $64,000
Over $76,000 but not over $88,000	$5,900 plus 11.0 per cent of excess over $76,000
Over $88,000 but not over $100,000	$7,220 plus 11.5 per cent of excess over $88,000
Over $100,000 but not over $120,000	$8,600 plus 12.0 per cent of excess over $100,000
Over $120,000 but not over $140,000	$11,000 plus 12.5 per cent of excess over $120,000
Over $140,000 but not over $160,000	$13,500 plus 13.0 per cent of excess over $140,000
Over $160,000 but not over $180,000	$16,100 plus 13.5 per cent of excess over $160,000
Over $180,000 but not over $200,000	$18,800 plus 14.0 per cent of excess over $180,000

If the taxable income is:	Then the tax is:
Over $300,000 but not over $400,000	$35,600 plus 14.5 per cent of excess over $300,000
Over $400,000	$50,100 plus 14.5 per cent of excess over $400,000

(c) There is imposed for each taxable year upon the taxable income of every resident, nonresident and part-year resident head of a household (as defined in section 2(b) of the Internal Revenue Code), taxes computed according to the following table.

If the taxable income is:	Then the tax is:
Not over $2,000	3 per cent of the taxable income
Over $2,000 but not over $4,000	$60 plus 3.5 per cent of excess over $2,000
Over $4,000 but not over $6,000	$130 plus 4.0 per cent of excess over $4,000
Over $6,000 but not over $8,000	$210 plus 4.5 per cent of excess over $6,000
Over $8,000 but not over $10,000	$300 plus 5.0 per cent of excess over $8,000
Over $10,000 but not over $12,000	$400 plus 5.5 per cent of excess over $10,000
Over $12,000 but not over $14,000	$510 plus 6.0 per cent of excess over $12,000
Over $14,000 but not over $16,000	$630 plus 6.5 per cent of excess over $14,000
Over $16,000 but not over $18,000	$760 plus 7.0 per cent of excess over $16,000
Over $18,000 but not over $20,000	$900 plus 7.0 per cent of excess over $18,000
Over $20,000 but not over $22,000	$1,040 plus 7.5 per cent of excess over $20,000
Over $22,000 but not over $24,000	$1,190 plus 8.0 per cent of excess over $22,000
Over $24,000 but not over $28,000	$1,350 plus 8.5 per cent of excess over $24,000

If the taxable income is:	Then the tax is:
Over $28,000 but not over $32,000	$1,690 plus 9.0 per cent of excess over $28,000
Over $32,000 but not over $38,000	$2,050 plus 9.5 per cent of excess over $32,000
Over $38,000 but not over $44,000	$2,430 plus 10.0 per cent of excess over $38,000
Over $44,000 but not over $50,000	$3,030 plus 10.5 per cent of excess over $44,000
Over $50,000 but not over $60,000	$3,660 plus 11.0 per cent of excess over $50,000
Over $60,000 but not over $70,000	$4,760 plus 11.5 per cent of excess over $60,000
Over $70,000 but not over $80,000	$5,910 plus 12.0 per cent of excess over $70,000
Over $80,000 but not over $90,000	$7,110 plus 12.5 per cent of excess over $80,000
Over $90,000 but not over $100,000	$8,360 plus 13.0 per cent of excess over $90,000
Over $100,000 but not over $150,000	$9,660 plus 13.5 per cent of excess over $100,000
Over $150,000 but not over $200,000	$16,410 plus 14.0 per cent of excess over $150,000
Over $200,000 but not over $300,000	$23,410 plus 14.5 per cent of excess over $200,000
Over $300,000	$37,910 plus 14.5 per cent of excess over $300,000

(d) The department shall compute and publish the Alaska income tax liability for resident taxpayers at the midpoint of each bracket of adjusted gross income (as defined in sec. 62 of the Internal Revenue Code) modified as required by sec. 31 of this chapter in $25 steps below $3,000 and $50 steps to $20,000 rounding the calculations to the nearest dollar. Resident taxpayers electing to take the standard deductions may

file returns based upon, and pay taxes according to, tables established under this section.

(e) There is imposed for each taxable year upon the entire taxable income of every corporation derived from sources within the state a tax consisting of a normal tax equal to 5.4 per cent of taxable income, and a surtax which is equal to 4.0 per cent of taxable income. For purposes of this chapter the surtax exemption for a taxable year follows secs. 1561 and 1563 of the Internal Revenue Code. (§ 1 ch 70 SLA 1975)

Constitutionality. — This chapter is not unconstitutional as wanting in uniformity. Alaska S.S. Co. v. Mullaney, 12 Alaska 433, 84 F. Supp. 561 (D. Alas. 1949), aff'd, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Interstate commerce not singled out by chapter. — There is nothing in this chapter which singles out for special treatment interstate commerce or those who are engaged in interstate commerce because and on account of such commerce. Alaska S.S. Co. v. Mullaney, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Graduated income taxes are based on policy grounds. — Graduated income taxes, involving as they do the concept of ability to pay, are based upon intelligible grounds of policy. Alaska S.S. Co. v. Mullaney, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

And they do not necessarily involve arbitrary classification. Alaska S.S. Co. v. Mullaney, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Income of a nonresident from intangible personal property (e.g. dividends from stocks and bonds) is not subject to income tax under this section unless the intangible property that is the source of the income has a business situs in Alaska. 1960 Op. Att'y Gen., No. 33.

There is no conflict between this chapter and federal law, 46 USC 601, prohibiting attachment or arrestment of wages accruing to seaman. Alaska S.S. Co. v. Mullaney, 12 Alaska 433, 84 F. Supp. 561 (D. Alas. 1949), aff'd, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Alaska can constitutionally levy tax on net income of seamen engaged in interstate and foreign commerce, where the tax is levied only on that portion of the seamen's net income which is attributed to their activity within the boundaries of the State of Alaska. Alaska v. Petronia, 69 Wash. 2d 460, 418 P.2d 755 (1966).

Taxability of oil lease bonus. — See 1961 Op. Att'y Gen., No. 27.

Liability of nonresident fur company under this act. — See 1959 Op. Att'y Gen., No. 22.

Medical deductions for part-year residents under Alaska Net Income Tax Act. — See 1961 Op. Att'y Gen., No. 28.

Am. Jur. 2d reference. — 71 Am. Jur. 2d, State and Local Taxation, § 1 et seq.

Sec. 43.20.020. Exemptions.
Repealed by § 13 ch 70 SLA 1975.

Editor's note. — The repealed section derived from § 5E, ch. 115, SLA 1949; added by § 1, ch. 132, SLA 1951; § 3, ch. 175, SLA 1959; § 1, ch. 202, SLA 1968; § 1, ch. 214, SLA 1968.

Sec. 43.20.021. Internal Revenue Code adopted by reference. (a) Subtitle F and chapter 1 of subtitle A of the 1954 Internal Revenue Code, Public Law 83-591, as amended, are adopted by reference as a part of this chapter, except that those provisions of the Internal Revenue Code adopted after December 31, 1975 which change or modify exemptions from tax or credits against tax are not adopted by reference as a part of this chapter until the second January 1 following the effective date of the federal law. These portions of the Internal Revenue Code have

full force and effect under this chapter unless excepted to or modified by other provisions of this chapter.

(b) For purposes of calculating the federal tax payable on personal holding companies provided for in the provisions of Internal Revenue Code § 541, the rate is 12.6 per cent.

(c) For purposes of calculating the alternative tax on capital gains provided for in the provisions of Internal Revenue Code § 1201, the rate is 4.5 per cent for corporations and 4 per cent for individuals and fiduciaries.

(d) Where a credit allowed under the Internal Revenue Code is also allowed in computing Alaska income tax, it is limited to 16 per cent of the amount of the credit determined for federal income tax purposes for individuals and 18 per cent for corporations.

(e) For the purpose of calculating the maximum tax rate on earned income as provided for in § 1348 of the Internal Revenue Code (26 U.S.C. § 1348), the rate is 9.5 per cent for individuals.

(f) For the purpose of calculating the minimum tax on tax preferences provided for in §§ 56 — 58 of the Internal Revenue Code (26 U.S.C. §§ 56 — 58), the rate is 16 per cent for individuals and 18 per cent for corporations of the applicable minimum federal tax rate. (§ 2 ch 70 SLA 1975; am §§ 1, 2 ch 125 SLA 1976)

Cross reference. — As to the immediate adoption by reference of § 44A (26 U.S.C. § 44A) and the 1976 amendments to § 37 (26 U.S.C. § 37) of the Internal Revenue Code as part of AS 43.20, see §§ 1, 2 and 4 of ch. 28, SLA 1977, in the Temporary and Special Acts of 1977.

Effect of amendment. — The 1976 amendment added the language beginning "except that those provisions" to the end of the first sentence of subsection (a) and added subsections (e) and (f).

Sec. 43.20.030. Returns and payment of taxes. (a) Every individual, fiduciary, partnership and corporation required to make a return under the provisions of the Internal Revenue Code shall at the same time file with the department a return setting out

(1) the amount of tax due under this chapter, less credits claimed against the tax; and

(2) other information for the purpose of carrying out the provisions of this chapter which the department requires.

(b) The return shall either be on oath or contain a written declaration that it is made under penalty of perjury, and the department shall prescribe forms accordingly.

(c) The total amount of tax imposed by this chapter is due and payable to the department at the same time and in the same manner as the tax payable to the United States Internal Revenue Service.

(d) A taxpayer, upon request by the department, shall furnish to the department a true and correct copy of the tax return which he has filed with the United States Internal Revenue Service. Every taxpayer shall

his federal income tax return and of a recomputation of tax or determination of deficiency (whether with or without assessment). A full statement of the facts shall accompany this notice. The notice shall be filed within 60 days after the final determination of the modification, recomputation or deficiency, and the taxpayer shall pay the additional tax or penalty under this chapter. For purposes of this section, a final determination shall mean the time that an amended federal return is filed or a notice of deficiency or an assessment is mailed to the taxpayer by the Internal Revenue Service, except that in no event will there be a final determination for purposes of this section until the taxpayer has exhausted his rights of appeal under federal law.

(e) The department may credit or refund overpayments of taxes, taxes erroneously or illegally assessed or collected, penalties collected without authority, and taxes that are found unjustly assessed or excessive in amount, or otherwise wrongfully collected. The department shall set limitations, specify the manner in which claims for credits or refunds are made, and give notice of allowance or disallowance. When a refund is allowed to a taxpayer, it shall be paid out of the general fund on a warrant issued under a voucher approved by the department. (§ 7 ch 115 SLA 1949; am § 2 ch 132 SLA 1951; am § 4 ch 5 SLA 1953; am § 2 ch 169 SLA 1972; am § 3 ch 70 SLA 1975)

Effect of amendment. — The 1975 amendment so changed this section as to make a detailed comparison impracticable.

Delegation of legislative authority valid. — The legislative authority conferred by this section appears to be within the test laid down in Bowles v. Willingham, 321 U.S. 503, 64 S. Ct. 641, 88 L. Ed. 892 (1944), in which the administrator of the Office of Price Administration was empowered to fix maximum rents which, in his judgment, would be generally fair and equitable in any defense rental area whenever in his judgment that action was necessary or proper in order to effectuate the purposes of the act, and further empowered to make adjustments for such relevant factors as he may determine and deem to be of general applicability, and to provide for such adjustments and reasonable exceptions as in his judgment are necessary and proper in order to effectuate the purposes of the act. Alaska S.S. Co. v. Mullaney, 12 Alaska 433, 84 F. Supp. 561 (D. Alas. 1949), aff'd, 12 Alaska 594, 180 F.2d 805 (9th Cir. 1950).

Quoted in Hickel v. Stevenson, Sup. Ct. Op. No. 351 (File No. 624), 416 P.2d 236 (1966).

Am. Jur. 2d reference. — 71 Am. Jur. 2d, State and Local Taxation, § 589.

Sec. 43.20.031. Taxable income of residents; deductions; exemptions. (a) The taxable income of a resident of the state is his entire taxable income as defined in § 63 of the Internal Revenue Code with the following modifications:

(1) a taxpayer whose income includes a cost-of-living allowance which is exempt from federal income tax shall determine and include that amount as part of his income as if the cost-of-living allowance were not exempt;

(2) the benefits allowed to taxpayers under Internal Revenue Code §§ 1301 — 1307, as amended, are allowed only to taxpayers who have

computation year as defined in these sections; the commissioner shall adopt regulations governing benefits under these sections of federal law allowable to spouses eligible to file a joint Alaska return for the computation year when one spouse has not been a resident of Alaska for the full base period;

(3) the benefits of nonrecognition of gain on the sale or exchange of certain property under §§ 1031, 1033 and 1034 of the Internal Revenue Code (26 U.S.C. §§ 1031, 1033 and 1034) are allowed only to taxpayers who purchase or exchange the property within the state, except that the benefits of § 1034 shall be allowed regardless of the location of the property for taxpayers who have attained the age of 65 on or before the time of the purchase or exchange.

(b) The following exemptions are allowed in computing taxable income under this section:

(1) service pay received by members of the armed forces of the United States or auxiliary branches of the armed forces;

(2) pensions and annuities received from qualified plans approved under §§ 401 — 415 of the Internal Revenue Code (26 U.S.C. §§ 401 — 415) as amended;

(3) income of a person derived from the sale of halibut taken from waters outside the territorial limits of the state and regulated by an international body or treaty organization if the person selling halibut in the state which is taken from outside the territorial limits of the state executes and submits to the department within 30 days after each sale a separate exemption certificate on a form approved by the department and the attorney general.

(c) In computing the tax under this chapter, the taxpayer is not entitled to deduct any taxes based on or measured by net income.

(d) Banks and savings and loan associations chartered by the federal government or the state are exempt from income tax under this chapter.

(e) An affiliated group of corporations may make or the commissioner may require them to make a consolidated or combined return for the taxable year in place of separate returns. For purposes of calculating the amount of tax payable by the group under a consolidated filing, Internal Revenue Code §§ 1501 — 1552, as amended, apply.

(f) A natural person is entitled to a tax credit not to exceed $50 for the amount of political campaign contributions made within the tax year, including but not limited to a contribution or gift to a person or organization for use exclusively (1) for political campaigns for candidates for President or Vice President of the United States, whether or not they will be voted on in a primary election in Alaska; United States senator from Alaska; United States representative from Alaska; governor or lieutenant governor of Alaska; the Alaska legislature; delegate to an Alaska constitutional convention; electoral confirmation as a judge or justice of a court in Alaska; and municipal office in Alaska;

or question; or dues to a nonprofit organization organized primarily for the purpose of influencing elections. The credit allowed by this subsection is in place of the credit allowed by § 41 of the Internal Revenue Code and the deduction allowed by § 218 of the Internal Revenue Code for contribution to candidates for public office.

(g) A person who wilfully makes and subscribes to a certificate referred to in (b) (3) of this section which is not true and correct as to every material fact is punishable by a fine of not more than $10,000, or by imprisonment for not more than five years, or by both.

(h) A taxpayer who purchases an entry permit under AS 16.43 in carrying on a trade or business is entitled to a deduction of the amount of the price paid during the tax year as if it were allowable under § 162 of the Internal Revenue Code (26 U.S.C. § 162). (§ 5 ch 70 SLA 1975; am §§ 3 — 5 ch 125 SLA 1976; am § 8 ch 73 SLA 1977; am § 6 ch 133 SLA 1977)

Cross reference. — As to disclosure of contributions, see AS 24.45.121.

Effect of amendments. — The 1976 amendment added paragraph (3) to subsection (a), rewrote paragraph (2) of subsection (b), and substituted "any taxes based on or measured by net income" for "from the adjusted gross income state income taxes" at the end of subsection (c).

The first 1977 amendment added subsection (h).

The second 1977 amendment, in the first sentence of subsection (f), inserted the item designations, inserted the language beginning "for candidates for President or Vice-President" and ending "municipal office in Alaska" in present item (1), and inserted "for groups seeking to influence the outcome of a ballot proposition or question" in present item (2).

Editor's note. — Section 1, ch. 115, SLA 1977, provides: "For purposes of AS 43.20.031 for tax years before January 1, 1976, an individual is taxable on his entire income as defined in that section except that income does not include wages earned outside the United States."

Am. Jur. 2d reference. — 71 Am. Jur. 2d, State and Local Taxation, § 518 et seq.

Sec. 43.20.035. Taxable income of nonresidents and part-year residents. (a) The taxable income of nonresidents or part-year residents of this state is taxable income as determined under § 31 of this chapter when attributable to sources in the state as provided in § 40 of this chapter with the following adjustments:

(1) a nonresident or part-year resident who claims the standard deduction as defined in Internal Revenue Code § 141 is allowed the deduction in the proportion provided in (b) of this section;

(2) a nonresident or part-year resident is entitled to claim the personal exemptions as defined in § 151 of the Internal Revenue Code in the proportion provided in (b) of this section;

(3) a nonresident or part-year resident who itemizes deductions is allowed a deduction for those items deductible under the Internal Revenue Code which arise from sources in the state.

(b) The ratio for prorating allowed by this section is the taxpayer's adjusted gross income from Alaska sources divided by the taxpayer's adjusted gross income from all sources. The ratio may not exceed 100

means adjusted gross income as defined in § 62 of the Internal Revenue Code as modified by the provisions of § 31 of this chapter.

(c) Deductions claimed which are allowed as deductions from gross income in arriving at adjusted gross income under the Internal Revenue Code are allowed only to the extent that they are connected with income which arises from sources in the state or property having a situs for taxation in the state. (§ 6 ch 70 SLA 1975)

Am. Jur. 2d reference. — 71 Am. Jur. 2d, State and Local Taxation, § 472.

Sec. 43.20.036. Federal tax deductions and credits. (a) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the foreign tax credit allowed as to federal taxes under Internal Revenue Code § 33 (26 U.S.C. § 33).

(b) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as a credit against his tax liability the job development investment credit allowed as to federal taxes under Internal Revenue Code § 50 upon only the first $500,000 of qualified investment put into use for each taxable year (26 U.S.C. § 50). This limitation does not apply to the amounts invested in equipment which meets the definition of a certified pollution control facility as defined under Internal Revenue Code § 169 (26 U.S.C. § 169) as in effect on the effective date of this Act except that the date specified in that section does not apply.

(c) For purposes of calculating the income tax payable under this chapter, the taxpayer may apply as an exemption from his tax liability the tax exemption for domestic international sales corporations under Internal Revenue Code § 991 (26 U.S.C. § 991), except those taxpayers who are engaged in the exportation of nonrenewable resources.

(d) For purposes of this chapter, the taxpayer may not apply for a refund of 1974 individual income taxes under Internal Revenue Code § 6428 (26 U.S.C. § 6428).

(e) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the credit for personal exemptions under Internal Revenue Code § 42 (26 U.S.C. § 42).

(f) For purposes of calculating the income tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the credit for earned income under Internal Revenue Code § 43 (26 U.S.C. § 43).

(g) For purposes of calculating the tax payable under this chapter, the taxpayer may not apply as a credit against his tax liability the credit for purchase of new principal residence under Internal Revenue Code

SB

295

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 295:

Retail charge agreements and revolving charge agreements shall receive and collect a service charge not to exceed 3% per annum. Proposed change is to be placed before the voters at the next general election; effective on the date approved by a majority of the voters.

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed $1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds $1,000, on so much of the unpaid balance as exceeds $1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than $12, but if the due date of the last installment of the contract is eight months or less after its effective date, $10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed $1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than $1,000, one-twelfth of the annual rate permitted under AS 45.45.010(b) per month on the excess over $1,000 of the outstanding balance;

(3) if the service charge so computed is less than $1 for any month, $1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than $5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential. (§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966; am § 2 ch 79 SLA 1980)

Cross reference. — As to revolving credit plans, see AS 06.05.208.

Effect of amendment. — The 1980 amendment substituted "one-twelfth of the annual rate permitted under AS 45.45.010(b)" for "one per cent" following "more than $1,000" in paragraph (2) of subsection (c).

Sec. 45.10.130. Insurance. If the cost of insurance is included in the retail installment contract or retail charge agreement and a separate charge is made to the buyer for the insurance,

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 295
Title An Act affecting interest rates; and placing the question before the voters of the State
Requested by Labor & Commerce Committee Date 3/19/81

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

Willis F. Kirkpatrick

IV. DATE 3/19/81 PREPARED BY Willis F. Kirkpatrick, Director of Banking
AGENCY Department of Commerce & Economic Development
PHONE 465-2521

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

33-001 (Rev. 12/80

SB

308

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 308:

The owner of an aircraft registered under AS02.35.040 shall be reimbursed by the manufacturer for money expended to bring the aircraft into compliance with airworthiness directives as established by the FAA.

The registered owner of the aircraft shall give written notice to the manufacturer of the costs incurred in achieving compliance with the airworthiness directives. The notice must include proof of payment, the name of the repair agency, the airworthiness directive involved, and the serial number of the aircraft. Failure of the manufacturer to reimburse the owner within 60 days after receipt of the notice is a violation of this section and constitutes a cause of action in favor of the registered owner for all costs incurred in seeking reimbursement, including reasonable attorney fees.

Reimbursement is limited to the cost of parts, labor, and expenses necessary to comply with airworthiness directives. Does not include reimbursement for the loss of service.

Reimbursement is limited to the 5 year periodafter the date of delivery by the manufacturer to the first registered owner.

A manufacturer of 50 or fewer aircraft a year is exempt from this Statute.

Sec. 02.35.030. Airman license required. No person may act as an airman of a civil aircraft when that aircraft is flown or operated in this state unless that person has an appropriate existing license or permit under federal law. (§ 32-6-4 ACLA 1949)

Sec. 02.35.040. Registration of aircraft. No aircraft shall be operated or be flown in this state until a certified copy of federal license or permit, as required in AS 02.35.020, has been filed with the department, and persons operating aircraft in the state shall within 30 days after the first day of January of each year file a certified copy of the federal license or permit with the department. (§ 32-6-5 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.050. Registration of airmen. No person may act as an airman of a civil aircraft when that aircraft is flown or operated in the state until a certified copy of that person's federal license or permit, as required in AS 02.35.030, has been filed with the department, and every airman of any civil aircraft in the state shall within 30 days after the first day of January of each year file a certified copy of his federal license or permit with the department. (§ 32-6-6 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.060. Proper officer to make and certify copies of licenses. The certified copies of licenses and permits required to be filed with the department under the provisions of this chapter may be made and certified by any officer authorized to administer oaths and having an official seal, inside or outside the state. No charge may be made by the department for the filings required. (§ 32-6-7 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.070. Receipts for certified certificates. The department, upon receipt of certified certificates as provided by AS 02.35.020 — 02.35.050, shall immediately issue to the proper party a receipt for the certified certificate, which is prima facie evidence that the party has complied with the registration requirements of this chapter. (§ 32-6-8 ACLA 1949; am § 16 ch 123 SLA 1949)

Probative value of receipt. — The receipt for the certified certificate, which is made prima facie evidence by this section, would be better evidence of the issuance and registration and contents of a pilot's license than the testimony of a witness thereto. This receipt would be of equal probative value with the license itself, and cover the additional point of compliance with the law of Alaska. Smith v. Pacific Alaska Airways, Inc., 9 Alaska 86, 89 F.2d 253 (9th Cir.), cert. denied, 9 Alaska 234, 302 U.S. 760, 58 S. Ct. 20, 82 L. Ed. 541 (1937).

Sec. 02.35.080. Exceptions to application of chapter. The provisions of this chapter do not apply to the first entry of a civil aircraft or airman while engaged exclusively in commercial flying, constituting an act of interstate or foreign commerce, nor does it apply to a public aircraft. (§ 32-6-10 ACLA 1949)

Sec. 02.35.
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THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 308
Title An act relating to aircraft.
Requested by (Senate Labor & Commerce Committee) Date 3/24/81

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY82	FY83	FY84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact on this department.

IV. DATE 3/31/81 PREPARED BY John Bates
AGENCY Transportation & Public Facilities
PHONE

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

33-001 (Rev. 12/79)

SB

318

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

FISCAL IMPACTS OF CS SB 318:

	1982	1983	1984	1985	1986
*(1)	$17,499,600	$32,285,100	$34,867,900	$37,657,400	$40,670,000
*(2)	1,469,900	2,075,800	2,239,600	2,418,800	2,612,200
*(3)	635,200	665,400	718,600	776,100	838,200
	$19,604,700	$35,026,300	$37,826,100	$40,852,300	$44,120,400

The above figures reflect the three categories of fiscal information provided for CS SB 318.

* (1) Dept. of C&RA
* (2) Dept. of Labor
* (3) Dept. of Labor; Administrative Services

Figures are based upon a projection of 3500 participants in FY 82, at a cost of $5,601.34 per individual (Average)

1983 Figures estimate 6,800 participants at a cost of $5,150.93 per individual (Average)

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS SB 318:

ALASKA STATE SUPPLEMENTAL EMPLOYMENT AND TRAINING

Section 1: Establishes employment and training program initiated by the Department of Labor and C&RA. Defines objectives and functions:

1. Department of Labor demand/supply survey
2. Labor Exchange (DoL)
3. C&RA Work Site Training program
4. Youth programs under C&RA and DoL
5. Evaluation System C&RA and DoL

To impliment the programs described in this section, the Dept. of C&RA and Dept of Labor may enter into agreements or contract on a competitive basis with employers, other State and Federal agencies, educational institutions, and other organizations.

C&RA shall implement Work Site Training programs thru contracts. C&RA shall reimburse employers and the reimbursement shall be specified by regulation. Defines eligibility for participation in Work Site Training programs:

1. Resident of the State
2. hired in a job requiring training
3. Unemployed for at least 30 days; or recently laid off as a reduction in force

Dept. of Labor and C&RA shall develop Youth Programs tailored to the needs of participants in geographic areas.

Dept. of C&RA shall design Internship Programs for individuals enrolled in post secondary occupational programs. Eligible programs shall be specified by regulation, but may include public or private vocational training, colleges, universities, or other organizations approved by regulation. Employers providing employment for an intern, may be reimbursed for a percentage of wages paid to the intern.

CS SB 318 continued:

Dept of Labor shall provide employment counselors to high schools. These counselors are regular employees of the DoL, but will work in coordination with schools.

Dept of C&RA shall establish vocational exploration programs to to provide career options (exposure to). Dept may contract with schools or public or private agencies to implement vocational exploration programs.

Dept of C&RA and DoL shall evaluate programs, establish evaluation standards, and develop current information.

Section 23.15.750 Definitions:

(1) Career work site training

(2) Entry level training

(3) Resident

Section 2: State money appropriated to the Department shall be expended thru the system of public employment offices; the Department may contract with other State agencies, municipalities, and public or rpivate non-profits.

Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 20 May, 1981

Senator Mulcahy called the meeting to order with all members present, and the first testimony was provided by Doris Simon (Dept of Labor) and Linda Luther (Dept of C&RA). They each explained the component features of the bill (CS), defining the responsibilities of their respective Departments. Upon completion of their sectional analysis of the bill, Senator Fahrenkamp posed questions concerning the counseling services provided in high schools and Doris Simon responded, referring to the counseling provisions in the bill. Linda Luther concluded the testimony with remarks about the evaluation procedures.

The next testimony was given by Senator Fergusson, sponsor of the bill, and he expressed support for its passage citing the various features of the bill as addressing the necessary functions of a State training and employment program.

Gail Vick (Tanana Chiefs, Fairbanks) spoke briefly, supported the legislation, and stated that the bill would address problem areas.

Sylvia Carlson, (AFN) testified in support of the bill, emphasizing the importance of certain portions especially the occupational Demand and Supply survey. Senator Hohman asked Sylvia if the AVPC supported the CS, and she responded that they do.

John Hope, Central Council of Tlingit and Haida, distributed publications to the members of the committee to explain the needs of the Tlingit and Haida community. Mr. Hope proposed four amendments to the CS at the conclusion of his testimony.

Jewel Jones, Director of the Division of Social Services for the Municipality of Anchorage, explained that the Municipality is in support of the concept of the program, but that the bill needed a closer tie to the Dept of Education and vocational education programs. She stated that she would like to see an amendment to include local governments, citing the fact that the municipality of Anchorage has 15

years of experience and understands the community needs. We should continue existing mechanisms for delivery. Further stated that she felt this to be a good piece of legislation yet she feels strongly that local governments need to be included.

Glen Lundell, Deputy director of the Dept of Labor, said that he supported passage of the bill, and explained his background in the context of Labor and management and that this bill could help resolve some employers problems also. He also shared Mr. Hope's concerns.

Lois Lind, Director of the Division of CETA, Dept of C&RA, briefly commented on the contracting system, and elaborated on the purpose of achieving entry level skills. Many members of the Alaskan work force have skills yet often these skills are not current. She spoke further about the work site training aspects of the program emphasizing the practicle and effective as opposed to classroom training .

Art Zillig, Employment Securities Division of the Dept of Labor, explained the problems deliverers of Federal programs have had, and emphasized the need for a labor exchange in the job market.

Chuck Caldwell, analyst for the Depc of Labor, spoke about resident hire, demand factors, and projections of employment for various areas in the State. The Dept must be able to asses current labor skills and match them with geographic needs in the State.

The Labor and Commerce committee meeting adjourned at 4:05pm.

Rec'd From Jim Kelly 3/2

STEP: A State Training and Employment Program

SUMMARY

Alaska has become enormously wealthy. The potential for even greater wealth through further discovery and development of its natural resources lies just beyond the horizon.

Development has not resulted in a proportionate increase in employment of Alaskans by Alaskan industry. Incongruous as it may seem, increased development has been paralleled by an increase in unemployment statewide. Witness:

- For each month since March of 1981 the statewide unemployment rate has increased by an average of 1.2 percentage points over its corresponding month one year previous.

All too frequently, employers within the State of Alaska turn to the "Outside" to supply their workers. Witness:

- Over 1 in 5 of all income tax returns filed for 1978 [the most recent year for which statistics are available] were from out-of-state or part-year residents.

Alaska's wealth has not translated into economic opportunity for large segments of its population. Witness:

- Approximately 73,000 of its residents are classified as having incomes below the "poverty level".
- Over 15 percent of the income tax returns filed in 1978 by full-year residents showed an adjusted gross income of less than $5,000.
- During the month of February, 1981, over 38,000 Alaska residents were receiving Food Stamps.
- Nearly 11 percent of the statewide population is unemployed.
- Approximately 17 percent of those youth in the labor force are unemployed.
- For each Alaskan who is classified as unemployed, still a-

nother makes no effort to seek employment and, hence, does not appear in the unemployment statistics.

That employment and training services are--and have been--needed by Alaska residents is evident. The alternative to such services is an increased dependence of Alaskans upon forms of public assistance and the continued immigration of workers from "Outside" to fill jobs rightfully due Alaskans.

Historically, Alaska has depended largely upon the federal government to address the employment and training needs of its people. In some respects federal assistance has proved successful--in other respects, no such claim can be made.

Recently adopted federal budgetary and fiscal policies portend drastic reductions in federal assistance for employment and training activities. While these "cuts" will certainly spell the demise of certain programs, they will also provide the State of Alaska with an opportunity to assume a greater responsibility for its own destiny in areas related to employment and training. The transfer of responsibility from federal to state government comes at a most opportune time. Fortunately, the State of Alaska is in the most enviable position of being able to assume such responsibilities. Alaska:

- is at the brink of extensive development of its natural resources--with an attendant need for technical and managerial workers.
- has a projected annual need for over 1,000 managerial workers over the next five years.
- has a projected increasing need for workers in the mining, construction, transportation, communications, and utilities industries.
- has a projected annual need for approximately 4,000 workers in the trade and industrial occupations over the next five years.
- has a projected annual need for over 9,000 trained workers over the next five years.
- will require more than 13,000 workers not included in current projections for peak construction of the proposed natural gas pipeline by 1984.
- government will introduce an approximate one billion dollars

[through the Alaska Native Claims Settlement Act, the Alaska Housing Finance Corporation loan packages, major capital improvements, state income tax refunds, and possible distribution of permanent fund earnings] into the economy.

- government increases in operating expenditures will add approximately 850 new jobs statewide during 1981.

- is expected to experience an increase of approximately 3 percent annual employment growth over the next year.

One would surmise that employment opportunities are in Alaska's immediate and not-too-distant future. Question: "Why, then, is there widespread unemployment?" Several related answers come to mind:

- Alaskan workers, collectively, do not have the skills required for many Alaskan jobs. Consequently, employers must recruit "Outside" for workers--especially for skilled technical workers needed in the development of natural resources.

- Federally assisted employment and training programs have focused upon private non-profit and public employment. Private for-profit employers have not been given an incentive to hire lower-skilled Alaskan workers.

- Private for-profit businesses are concentrated in Alaska's urban areas. Hence, the huge rural areas offer little in the way of opportunity for employment.

Proposed legislation would establish a State Training and Employment Program [STEP]. The purpose of STEP would be threefold:

- to meet the labor demands of Alaska's private for-profit employers resulting from the development of the State's natural resources and their attendant support industries.

- to increase employment opportunities in the private for-profit sector for those Alaskan's already in the labor force, and

- to enhance the employability and work skills of Alaskans who want to join the labor force but are prevented from doing so by a lack of vocational preparation or other employment barriers.

STEP would not propose to "replace" or duplicate currently operating federal training and employment programs of demonstrated effectiveness. In-

stead, it would propose to provide programs of a broader scope which have the flexibility to address local needs and to solve--or even prevent--local problems.

STEP would emphasize involvement of Alaskan private for-profit industries in the promotion of employment opportunities for Alaskans. When fully developed, its theme could well be: "Jobs for Alaskans in Alaskan industry."

As envisioned, STEP would include the following elements--the inclusion of which would be determined by local program operators upon the basis of need and opportunity:

- ON-THE-JOB TRAINING: Private for-profit businesses and industries would train individuals on-the-job and would be reimbursed with STEP funds for participant salaries and expenses on a decreasing subsidy basis. [A small percentage of on-the-job funds may be allocated for training within the private non-profit and public sectors.]

- CLASSROOM TRAINING: Classroom training [vocational/technical education and training courses] would be provided for selected individuals for up to twelve months only for jobs within the private sector for which a certified need exists or is projected for the immediate future.

- VOCATIONAL EXPLORATIONS: Opportunities within the private for-profit sector would be identified where youth would be able to receive "hands-on" experience in their exploration of vocational choices.

- SERVICES: Services would be provided which would include material or functional necessities requisite to an individual's participation in one of the other STEP elements. Services could include such things as counseling, aptitude and interest testing, special tools or clothing needed for on-the-job training, or day care assistance.

Funds appropriated for STEP would be administered by the Department of Community and Regional Affairs in accordance with the following guidelines:

- A pre-determined percentage of appropriated funds would be "passed through" to the Municipality of Anchorage for program operation and sub-contracting.

- A pre-determined percentage of appropriated funds would be

set aside and made available to federally recognized Native American Grantees who would receive disbursement on the basis of competitive proposals.

- The remaining funds [including those set aside for, but not awarded to, Native American Grantees] would be made available to the Division of Community Employment and Training Assistance [DCRA] for program operation and sub-granting in those areas of the State not otherwise served.

STEP would represent a departure from traditional training and employment programs in both philosophy and approach. The core of the program would lie in the marriage of the needs of Alaska's private sector labor market with those of its residents for improved employment opportunities. In such an approach, the whole would be greater than the sum of its parts.

Alaska's private for-profit sector would:

- be assured of the availability of--or the wherewithal for obtaining--skilled workers trained specifically for its needs,

- effect savings in costs involved in the training or upgrading of its employees,

- accrue benefits resulting from the stimulus of increased employment and economic activity, and

- be able to reduce its cost-benefit ratio through local recruitment and hire.

Alaska's citizenry would:

- gain increased confidence in the State's ability to solve its problems with a minimum of outside assistance--interpreted by some as interference,

- effect monetary savings through decreased expenditures for public assistance, law enforcement, and various other social service programs, and

- experience an improved standard of living resulting from increased employment and its attendant economic activity--

all the while enjoying the benefits of an improved quality of life.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Committee Meeting Minutes: 27 May, 1981

The Senate Labor and Commerce Committee meeting was called to order by Senator Mulcahy at 3:04pm, and the first item of business was HB 314am. Representative Haugen, sponsor of the bill, provided testimony on the bill, and Senator Fahrenkamp made a motion to move the bill with individual recommendations.

Senator Mulcahy brought up HB 274, and a motion was made by Senator Fahrenkamp that the bill be moved from committee with individual recommendations.

Chairman Mulcahy brought up CS SB 318, and a motion was made by Senator Fahrenkamp that the bill be moved with individual recommendations.

The final piece of legislation addressed at the meeting was CS SB 552 and after a brief discussion by committee members, a motion was made by Senator Fahrenkamp that CS SB 552 move from committee with individual recommendations. The committee meeting was adjourned at 3:14pm.

SENATE

FURTHER: Finance

3/26/81

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 318 establishing a state training an employment program

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[N] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Bob Mulcahy

Fahrendorf

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bengtson - No Rec.

Bob Mulcahy
CHAIRMAN

ARTICLE 6. STATE TRAINING AND

Chapter 15. Employment Services.

Article
1. Vocational Rehabilitation (§§ 23.15.010—23.15.210)
2. Governor's Committee on Employment of Physically Handicapped (§§ 23.15.220—23.15.320)
3. Employment Agencies (§§ 23.15.330—23.15.520)
4. Manpower Development and Training (§§ 23.15.610—23.15.617)
5. Work Incentive Program for Welfare Recipients (§ 23.15.650)

Article 1. Vocational Rehabilitation.

Section
10. Board of Vocational Rehabilitation
20. Powers and duties of board
30. Appointment of administrative officers
40. Office of Vocational Rehabilitation established
50. Director of vocational rehabilitation
60. Agreements under Social Security Act
70. Personnel policies
80. Eligibility for vocational rehabilitation service
90. Priority as to eligibility
100. Powers and duties
110. Extension of services outside state
120. Cooperation with federal government
130. Small businesses revolving fund
140. [Repealed]
150. Receipt and disbursement of funds
160. Gifts
170. Maintenance not assignable
180. Hearings
190. Misuse of lists and records
200. Limitation on political activity
210. Definitions

Sec. 23.15.010. Board of Vocational Rehabilitation. The Board of Education which administers the program of vocational education is designated as the Board of Vocational Rehabilitation to administer the vocational rehabilitation program. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.020. Powers and duties of board. (a) The board may cooperate with a federal agency, as provided and required by federal law for vocational rehabilitation.

(b) The board shall comply with these federal laws and the conditions necessary to secure the full benefit of the federal vocational rehabilitation laws, and shall do all things necessary to entitle the state to receive the benefits of the federal laws.

(c) The board may do all the things and adopt the regulations which are necessary to carry out the federal laws and the purposes of §§ 10—210 of this chapter. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.030. Appointment of administrative officers. The board may appoint administrative officers, and delegate to them the authority necessary to carry out §§ 10—210 of this chapter. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957; am § 1 ch 79 SLA 1960)

Sec. 23.15.040. Office of Vocational Rehabilitation established. The Office of Vocational Rehabilitation is established under the Board of Vocational Rehabilitation to carry out §§ 10—210 of this chapter. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957)

Sec. 23.15.050. Director of vocational rehabilitation. The board shall appoint a director of the Office of Vocational Rehabilitation. The director has the administrative authority delegated to him by the board and necessary to carry out §§ 10—210 of this chapter and the regulations and policies adopted by the board. (§ 37-9-6 ACLA 1949; am § 2 ch 144 SLA 1957; am §§ 2, 3 ch 79 SLA 1960; am § 9 ch 96 SLA 1967)

Effect of amendment. — The 1967 amendment deleted "serves as the executive officer of the board and" following "director" near the beginning of the second sentence.

Sec. 23.15.060. Agreements under Social Security Act. (a) The board acting through the Office of Vocational Rehabilitation may enter into necessary agreements on behalf of the state with the Secretary of Health, Education and Welfare to carry out the provisions of the federal Social Security Act, as amended, and as it is subsequently amended, relating to the making of determinations of disability under Title II of that Act.

(b) The Department of Revenue shall act as the custodian of funds paid by the federal government to the state, shall comply with agreements entered into under the Social Security Act, and shall disburse the funds in accordance with instructions from the director of the Office of Vocational Rehabilitation. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957)

Sec. 23.15.070. Personnel policies. The board shall adopt personnel policies for the Office of Vocational Rehabilitation. The director shall execute these policies and keep them on file in his office. (§ 37-9-6 ACLA 1949; am § 2 ch 169 SLA 1955; am § 2 ch 144 SLA 1957)

Sec. 23.15.080. Eligibility for vocational rehabilitation service. (a) Vocational rehabilitation service shall be provided directly or through a public or private instrumentality to a handicapped individual (1) who is a resident of the state at the time he applies for the service and whose vocational rehabilitation the agency determines after full investigation can be satisfactorily achieved, or (2) who is eligible for the service under an agreement with another state or with the federal government.

(b) Vocational rehabilitation services, other than diagnostic and

be provided at public cost only to the extent that the handicapped individual is found by the agency to require financial assistance. (§ 37-9-7(1) ACLA 1949; am § 3 ch 144 SLA 1957)

Sec. 23.15.090. Priority as to eligibility. If vocational rehabilitation service cannot be provided for all eligible handicapped individuals who apply, the agency shall provide by regulation for determining the order to be followed in selecting those to whom the services will be provided. (§ 37-9-7(2) ACLA 1949; am § 3 ch 144 SLA 1957)

Sec. 23.15.100. Powers and duties. (a) In carrying out §§ 10—210 of this chapter the agency shall

(1) take the action it considers necessary or appropriate to carry out the purposes of §§ 10—210 of this chapter, and adopt regulations in conformity with these purposes;

(2) determine the eligibility of applicants for vocational rehabilitation service;

(3) submit to the governor annual reports of activities and expenditures and, before each regular session of the legislature, estimates of sums required for carrying out §§ 10—210 of this chapter and estimates of the amounts to be made available for this purpose from all sources; and

(4) cooperate with public and private departments, agencies and institutions in providing for the vocational rehabilitation of handicapped individuals, studying the problems involved in providing this rehabilitation, and establishing, developing and providing, in conformity with the purposes of §§ 10—210 of this chapter, the programs, facilities and services which may be necessary or desirable.

(b) In carrying out §§ 10—210 of this chapter, the agency may

(1) enter into agreements with other states to provide for the vocational rehabilitation of residents of the states concerned;

(2) establish and operate rehabilitation facilities and workshops and make grants to public and other nonprofit organizations for these purposes;

(3) supervise the operation of vending stands and other small businesses established under §§ 10—210 of this chapter to be conducted by severely handicapped individuals; and

(4) make studies, investigations, demonstrations and reports, and provide training and instruction (including the establishment and maintenance of the research fellowships and traineeships with the stipends and allowances which

Sec. 23.15.110. Extension of services outside state. Vocational rehabilitation service may be extended to the continental United States to all individuals eligible under §§ 10—210 of this chapter. The director of the Office of Vocational Rehabilitation may place professional or clerical personnel or both inside the continental United States to carry out the purposes of §§ 10—210 of this chapter. (§ 37-9-8(3) ACLA 1949; am § 4 ch 144 SLA 1957)

Sec. 23.15.120. Cooperation with federal government. (a) The agency shall cooperate with the federal government in carrying out the purposes of federal laws pertaining to vocational rehabilitation (including the licensing of blind persons to operate vending stands on federal property) and may adopt the methods of administration which are found by the federal government to be necessary for the proper and efficient operation of agreements or plans for vocational rehabilitation. The agency may comply with the conditions which are necessary to obtain the full benefits of the federal laws for the state and its residents.

(b) Upon designation by the governor, the agency may perform functions and services for the federal government relating to individuals under a physical or mental disability, in addition to those provided in (a) of this section. (§ 37-9-9 ACLA 1949; am § 5 ch 144 SLA 1957)

Sec. 23.15.130. Small businesses revolving fund. Funds to carry out the provisions of §§ 10—210 of this chapter may be appropriated in the general appropriation act of the legislature. There is created in the state treasury a revolving fund designated as "The Vocational Rehabilitation Small Business Enterprises Revolving Fund." Receipts from the small business enterprise program shall be deposited into the fund and are available for the operation of the program. If the program is discontinued the unobligated balance shall revert to the general fund of the state and when all obligations have been met the fund shall be abolished. (§ 37-9-10 ACLA 1949; added by § 6 ch 144 SLA 1957)

Cross reference.—For provisions as to special funds, see AS 37.05.155.

Sec. 23.15.140. Vocational Rehabilitation Fund.

Repealed by § 2 ch 23 SLA 1968.

Editor's note.—The repealed section derived from § 37-9-11, ACLA 1949; § 6, ch. 144, SLA 1957.

Section 1, ch. 23, SLA 1968, provides: "The balance in the Vocational Rehabilitation Fund created by AS 23.15.140 shall be transferred to a trust and agency fund."

Sec. 23.15.150. Receipt and disbursement of funds. The Department of Revenue is designated custodian of all vocational rehabilita-

Sec. 23.15.160. Gifts. The board may accept a gift or donation from a public or a private source which is offered unconditionally for carrying out §§ 10—210 of this chapter. The board may accept a conditional gift if, in the judgment of the agency, the conditions are proper and consistent with §§ 10—210 of this chapter. (§ 37-9-13 ACLA 1949; added by § 6 ch 144 SLA 1957; am § 3 ch 23 SLA 1968)

Effect of amendment.—The 1968 amendment deleted "The board shall hold it, invest it, reinvest it, and comply with the conditions" at the beginning of the former third sentence, and added the remaining portion of that sentence to the second sentence.

Sec. 23.15.170. Maintenance not assignable. The right of a handicapped individual to maintenance under §§ 10—210 of this chapter is not transferable or assignable at law or in equity. (§ 37-9-14 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.180. Hearings. An individual applying for or receiving vocational rehabilitation who is aggrieved by the action or inaction of the agency is entitled to a fair hearing by the agency, in accordance with regulations. (§ 37-9-15 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.190. Misuse of lists and records. It is unlawful, except for purposes directly connected with the administration of the vocational rehabilitation program and in accordance with regulations, for a person to solicit, disclose, receive, or make use of, or authorize, knowingly permit, participate in, or acquiesce in the use of a list of, names of, or information concerning, persons applying for or receiving vocational rehabilitation, directly or indirectly, derived from the records, papers, files, or communications of the state or an agency of the state, or acquired in the course of the performance of official duties. An officer or employee violating this provision is subject to discharge or suspension. (§ 37-9-16 ACLA 1949; added by § 6 ch 144 SLA 1957)

Sec. 23.15.200. Limitation on political activity. No officer or employee engaged in the administration of the vocational rehabilitation program may use his official authority to influence or permit the use of the vocational rehabilitation program for the purpose of interfering with an election or affecting the results of an election or for a partisan political purpose. No officer or employee may solicit or receive, nor may an officer or employee be obliged to contribute or render, a service, assistance, subscription, assessment, or contribution for a political purpose. An officer or employee violating this section is subject to discharge or suspension. (§ 37-9-17 ACLA 1949; added by § 6 ch 144 SLA 1957)

(2) "board" means the Board of Education acting as the Board of Vocational Rehabilitation;

(3) "director" means the director of the Office of Vocational Rehabilitation;

(4) "handicapped individual" means an individual under a physical or mental disability which constitutes a substantial handicap to employment, but which is of such a nature that vocational rehabilitation services may reasonably be expected to render him fit to engage in a remunerative occupation;

(5) "individual who is under a physical or mental disability" means an individual who has a physical or mental condition which materially limits, contributes to limiting, or, if not corrected, will probably result in limiting his activities or functioning;

(6) "vocational rehabilitation service" means goods and services, including diagnostic and related services, necessary to render a handicapped individual fit to engage in a remunerative occupation;

(7) "workshop" means a place where manufacture or handiwork is carried on, and which is operated for the primary purpose of providing remunerative employment to severely handicapped individuals (A) as an interim step in the rehabilitation for those who cannot readily be absorbed in the competitive labor market or (B) during a time when employment opportunities for them in the competitive labor market do not exist. (§ 37-9-5 ACLA 1949; am § 1 ch 169 SLA 1955; am § 1 ch 144 SLA 1957)

Article 2. Governor's Committee on Employment of Physically Handicapped.

Section
220. Purpose
230. Appointment of committee
240. Appointment and term of chairman
250. Compensation and expenses
260. Meetings
270. Cooperation with other committees and agencies
280. Appointment of advisors
290. Employ the physically handicapped week
300. Manner of handling funds
310. Gifts
320. Annual report to governor

Sec. 23.15.220. Purpose. The purpose of §§ 220—320 of this chapter is to create a governor's committee on employment of the handicapped for Alaska to carry on a continuing program to promote the employment of the handicapped citizens of the state by creating statewide interest in the rehabilitation and employment of the handicapped, and by obtaining and maintaining cooperation with public and private groups and individuals in this field. (§ 1 ch 23

composed of state leaders of industry, business, agriculture, labor, veterans, women, religious, educational, civic, fraternal, welfare, scientific, military, medical and other professions, or as many of these and like categories as may be feasibly represented. The initial members shall be appointed for terms of one, two, and three years as designated by the governor. A member may be reappointed and a vacancy shall be filled by the governor. (§ 2 ch 23 SLA 1960)

Sec. 23.15.240. Appointment and term of chairman. The governor shall appoint a chairman of the committee who serves as chairman for one year or until his successor is appointed. (§ 2 ch 23 SLA 1960)

Sec. 23.15.250. Compensation and expenses. Members of the committee may receive no compensation for services on the committee but are entitled to reimbursement for necessary expenses in accordance with existing law. (§ 2 ch 23 SLA 1960)

Sec. 23.15.260. Meetings. The committee shall meet annually, but at the request of the governor special meetings may be called. (§ 2 ch 23 SLA 1960)

Sec. 23.15.270. Cooperation with other committees and agencies. The committee shall work in close cooperation with local committees and with the President's Committee on Employment of the Physically Handicapped to carry out the purpose of §§ 220—320 of this chapter more effectively, and with state and federal agencies having responsibilities for employment and rehabilitation of the handicapped. (§ 1 ch 23 SLA 1960)

Sec. 23.15.280. Appointment of advisors. The Office of Vocational Rehabilitation, the State Employment Service, the Department of Health and Social Services, and other state agencies which the committee names shall each designate a staff member who shall meet with the committee and act in an advisory capacity. The federal Veterans Employment Service and the Veterans Administration shall each be invited to designate a member of their respective staffs to serve in this capacity with the committee. Agencies of the state shall provide the assistance to the committee which the committee requests to aid it in carrying out the purposes of §§ 220—320 of this chapter. (§ 3 ch 23 SLA 1960; am § 6 ch 104 SLA 1971)

Effect of amendment. — The 1971 amendment substituted "Department of Health and Social Services" for "Department of Health and Welfare" in the first sentence.

held throughout the state for the purpose of enlisting public support for, and interest in the employment of, the physically handicapped. The mayors of cities, and heads of government instrumentalities, and leaders of industry and business, educational and religious groups, labor, veterans, women, farm, scientific and professional, and all other interested organizations and individuals shall be invited to participate. (§ 4 ch 23 SLA 1960)

Sec. 23.15.300. Manner of handling funds. Funds to carry out §§ 220—320 of this chapter shall be appropriated, expended and accounted for through the same procedures as funds for operation of the Department of Labor. (§ 5 ch 23 SLA 1960)

Sec. 23.15.310. Gifts. The committee may acce property by gift, devise, bequest or otherwise to carry out the poses of §§ 220—320 of this chapter. (§ 6 ch 23 SLA 1960)

Sec. 23.15.320. Annual report to governor. The Committee shall annually report its activities during the preceding year to the governor. (§ 7 ch 23 SLA 1960)

Article 3. Employment Agencies.

Section
330. Exemptions
340. Permit
350. Application
360. Bond
370. Investigation of applicant
380. Refusal of permit
390. Fees
400. Renewal of permit
410. Revocation or suspension of permit
420. Limitations on conduct of employment agencies
430. Agency to maintain register
440. Records open to inspection
450. Applicant's receipt
460. Schedule of fees
470. Maximum fees
480. Return of fees
490. Prohibited acts
500. Department may adopt regulations
510. Violations
520. Definitions

Sec. 23.15.330. Exemptions. Sections 330—520 of this chapter do not apply to an educational, religious, charitable, fraternal, or benevolent organization which does not charge for services, or to a bona fide labor organization, or a government agency. (§ 2 ch 94 SLA 1953)

Am. Jur. reference.—31 Am. Jur., Labor, §§ 540, 541, 760 to 762.

Sec. 23.15.340. Permit. In order to operate an employment agency, a person shall obtain a permit from the department. The permit shall be posted in a conspicuous place in the employment agency. (§ 3(1) ch 94 SLA 1953)

Sec. 23.15.350. Application. To obtain a permit to operate an

(1) the name and address of the applicant and the street and number of the building or place where the business of the employment agency is to be conducted;

(2) the businesses or occupations engaged in by the applicant for at least two years immediately preceding the date of application; and

(3) The names and addresses of all persons financially interested in the operation of the agency. (§ 3(2) ch 94 SLA 1953)

Sec. 23.15.360. Bond. The department may not issue a permit until the applicant furnishes a bond to the department in the amount and with surety which the department considers necessary. The amount of the bond may not be less than $1,000 nor more than $10,000. The bond shall be conditioned on the applicant's full compliance with the provisions and requirements imposed by §§ 330—520 of this chapter and the payment of all judgments recovered against the applicant for violation of §§ 330—520 of this chapter and any judgment and costs recovered against him by a laborer, worker or applicant for a position due to wilful misrepresentation or wilful deceit of a laborer or applicant for a position. (§ 3(3) ch 94 SLA 1953)

Sec. 23.15.370. Investigation of applicant. Upon application for a permit, the department may make an investigation as to the character and responsibility of the applicant and the premises where the applicant proposes to conduct the business. (§ 3(4) ch 94 SLA 1953)

Sec. 23.15.380. Refusal of permit. The department may, after notice and hearing, refuse to grant a permit where there is reasonable ground to believe that the applicant is of unfit moral character or is irresponsible. The department shall grant or refuse an application within 30 days of the date of filing. (§ 3(5) ch 94 SLA 1953)

Am. Jur. reference.—11 Am. Jur., Constitutional Law, § 290.

Sec. 23.15.390. Fees. The fee for filing an application for a permit is $10. All fees shall be deposited in the general fund. In addition to paying this fee, all persons conducting employment agencies must comply with the provisions of the Alaska Business License Act (AS 43.70). (§ 3(6) ch 94 SLA 1953)

Sec. 23.15.400. Renewal of permit. Thirty days before the expiration of a permit the holder must apply for renewal of his permit in order to renew the permit. The application for renewal

Sec. 23.15.410. Revocation or suspension of permit. (a) The department may revoke or suspend a permit if

(1) the permittee or his agent has violated or failed to comply with a provision of §§ 330—520 of this chapter;

(2) the permittee has stopped being of good moral character.

(b) Before revoking or suspending a permit, the department shall notify the holder in writing of the charges against him and give him an opportunity to be heard in person or by counsel. (§ 3(8) (9) ch 94 SLA 1953)

Sec. 23.15.420. Limitations on conduct of employment agencies. The department may not issue a permit to conduct an employment agency

(1) in rooms used for living purposes;

(2) in connection with a pool hall, bar or intoxicating liquor dispensary, or recreation center operated for profit;

(3) to a person whose permit has been revoked within three years from the date of application;

(4) to a person who is financially interested in a travel agency or who in any way benefits financially from the sale of air, steamship or bus transportation. (§ 4 ch 94 SLA 1953)

Sec. 23.15.430. Agency to maintain register. An employment agency shall keep a register containing the name and address of each applicant, the date registered and the amount of fee received. (§ 5(1) ch 94 SLA 1953)

Sec. 23.15.440. Records open to inspection. All registers, books, records and other papers kept under §§ 330—520 of this chapter shall be open to the inspection of the department at all reasonable times. The agency shall furnish a copy of a record or report to the department within 30 days of the request. (§ 5(2) ch 94 SLA 1953)

Sec. 23.15.450. Applicant's receipt. An agency shall give to an applicant for employment from whom a fee is to be received a receipt. The receipt shall contain

(1) the name, address and telephone number of the employment agency;

(2) the name of the applicant;

(3) the name and address of the person to whom the applicant is sent for employment, and the address to which the applicant is to report for work;

(4) the amount of the fee charged and collected from the applicant;

Sec. 23.15.460. Schedule of fees. A person conducting an employment agency shall file a schedule of its fees with the department. The agency may change the fee schedule, but no change becomes effective until seven days after it is filed with the department and until it is posted for not less than seven days in a conspicuous place in the agency. The agency shall post a copy of the fee schedule in the agency in a conspicuous place frequented by applicants for help or employment. (§ 5(4) ch 94 SLA 1953)

Sec. 23.15.470. Maximum fees. After notice and hearing the department shall set a maximum schedule of fees. The department may review the schedule every two years after giving notice and hearing. (§ 5(5) ch 94 SLA 1953)

Am. Jur. reference.—14 Am. Jur., Criminal Law, § 19.

Sec. 23.15.480. Return of fees. If the applicant paying a cash fee fails to obtain employment, the agency shall, upon demand, return the amount of the fee to the applicant within 48 hours. (§ 5(6) ch 94 SLA 1953)

Sec. 23.15.490. Prohibited acts. No employment agency may

(1) send out an applicant for employment without having a bona fide request from an employer;

(2) send a person to an employer for the purpose of assisting or conducting an illegitimate business or practice;

(3) place a child in employment in violation of the child labor laws;

(4) divide or offer to divide a fee with an employer;

(5) make a charge which does not conform with the schedule of fees;

(6) falsify a record of the agency;

(7) write, publish, or have published false, fraudulent, or misleading information, representation, notice or advertisement concerning a job opportunity;

(8) send an applicant for employment to a place where a strike or lockout exists without informing the applicant of the existence of the strike or lockout. (§ 5(7) ch 94 SLA 1953)

Sec. 23.15.500. Department may adopt regulations. The department may adopt rules and regulations consistent with §§ 330—520 of this chapter. (§ 5(8) ch 94 SLA 1953)

Sec. 23.15.510. Violations. A person who wilfully violates any provision of §§ 330—520 of this chapter is guilty of a misdemean-

Sec. 23.15.520. Definitions. In §§ 330—520 of this chapter

(1) "employment agency" or "agency" means a person engaged in the business of furnishing employment or help, or giving information as to where employment or help may be obtained, or furnishing information regarding employment, or displaying an employment sign or bulletin, or, through the medium of a card, circular or pamphlet, or otherwise offering to obtain employment or help, or a person who offers employment information through communications media, including, but not limited to, radio, television, newspapers;

(2) "fee" means money or other valuable consideration received by a person, paid or promised to be paid for services given or to be given by a person conducting an employment agency;

(3) "registration fee" means a charge made or attempted to be made for registering or listing an applicant for employment, or for the furnishing of employment information as set out in this section. (§ 1 ch 94 SLA 1953; am § 1 ch 197 SLA 1970)

Effect of amendment. — The 1970 amendment inserted "or furnishing information regarding employment" in paragraph (1), added the language following "employment or help" in that paragraph, and added the language following "applicant for employment" in paragraph (3).

Article 4. Manpower Development and Training.

Section
610. [Repealed]
611. Department of Labor participation in manpower training programs
614. Manpower training division
617. Manpower Training Advisory Council

Sec. 23.15.610. Participation in Manpower Development and Training Act.

Repealed by § 1 ch 103 SLA 1968.

Editor's note.—The repealed section derived from § 1, ch. 71, SLA 1965.

Sec. 23.15.611. Department of Labor participation in manpower training programs. (a) The Department of Labor is authorized to participate in programs of manpower training if it finds they are necessary to meet the occupational needs of the state. This authorization includes authority to execute on behalf of the state agreements or contracts which may be necessary or desirable to enable the state to participate in a program, to receive and expend all appropriate funds made available for programs by the state or from other sources, to supervise the expenditure of the funds and conduct of the programs by other public and private agencies of

(b) The Department of Labor may expend funds for the payment of transportation, subsistence and training allowances to trainees, incentive payments to employers who have contracted to employ workers under the on-the-job training provisions of the Manpower Development and Training Act of 1962 as amended, and for necessary administrative costs of the department in carrying out the program. If allowance payments are granted to trainees they will be paid in an amount not exceeding the guidelines provided by the U.S. Manpower Development and Training Act of 1962 as amended, and by regulations promulgated by the Department of Labor.

(c) The Department of Education shall work in cooperation with the Department of Labor and shall provide training facilities and training instructors as needed for the programs with funds made available to the Department of Education for those purposes. (§ 1 ch 103 SLA 1968; am § 1 ch 74 SLA 1969)

Effect of amendment. — The 1969 amendment in the first sentence of subsection (b) substituted "may expend" for "shall expend," deleted "solely" preceding "for the payment," and inserted the language between the words "trainees" and "and for necessary." In the second sentence of subsection (b) the amendment substituted "If" for "The," inserted "are granted," inserted "they," and substituted "an amount not exceeding the" for "accordance with."

Editor's note.—For the Manpower Development and Training Act of 1962, see 42 U.S.C. § 2571 et seq.; PL 87-415; 76 Stat. 23.

Sec. 23.15.614. Manpower training division. There is in the Department of Labor the manpower training division, which is administered by a director responsible to the commissioner. The director shall administer § 611 of this chapter. (§ 2 ch 74 SLA 1969)

Revisor's note (1969). — In ch. 74, SLA 1969, this section was numbered AS 23.15.612.

Sec. 23.15.617. Manpower Training Advisory Council. (a) There is the Manpower Training Advisory Council consisting of

(1) the commissioner of labor or his representative, who shall be chairman;

(2) the commissioner of education or his representative;

(3) the commissioner of health and social services or his representative;

(4) the commissioner of economic development or his representative;

(5) the commissioner of administration or his representative;

(6) the director of the division of planning and research or his

(b) The members representing industry and the members representing labor will be appointed by the governor, will serve for a term of three years, and will be entitled to the same per diem and expenses as members of other boards and commissions.

(c) The council will

(1) advise the director of the division of manpower training as to economic development and the manpower training needs of the state;

(2) collect data on the extent of unemployment and its causes, and may hold hearings throughout the state from time to time for this purpose;

(3) recommend to the governor action that executive agencies should take under existing law to alleviate unemployment;

(4) urge necessary changes in military procurement and construction policies;

(5) cooperate with federal and independent agencies;

(6) present a comprehensive report of its activities to the members of the legislature at the start of each legislative session;

(7) emphasize through publicity and persuasion the importance and desirability of hiring residents of the state to the fullest extent possible.

(d) The council will meet at least twice a year. (§ 3 ch 74 SLA 1969; am § 6 ch 104 SLA 1971)

Revisor's note (1969). — The division of planning and research referred to in AS 23.15.617(a)(6) is in the Office of the Governor. In ch. 74, SLA 1969, this section was numbered AS 23.15.613.

Cross reference. — As to travel expenses and per diem allowance, see AS 39.20.180.

Effect of amendment. — The 1971 amendment substituted "commissioner of health and social services" for "commissioner of health and welfare" in paragraph (3).

Article 5. Work Incentive Program for Welfare Recipients.

Section
650. Participation in Work Incentive Program for Welfare Recipients

Sec. 23.15.650. Participation in Work Incentive Program for Welfare Recipients. In order to provide those receiving aid to families with dependent children with incentives, opportunities, and necessary services for employment, training and participation in the regular economy the Department of Labor is authorized to administer the Work Incentive Program for Welfare Recipients. This authorization includes authority to execute on behalf of the state agreements or contracts with the appropriate federal agencies

by the state or by the federal government, to supervise the expenditures of the funds and the conduct of the program, and to make reports and certificates which are called for, and otherwise to cooperate with the federal government and its departments and agencies in the administration of the program. (§ 1 ch 134 SLA 1968)

Chapter 20. Alaska Employment Security Act.

Article
1. Administration (§§ 23.20.005—23.20.125)
2. Funds (§§ 23.20.130—23.20.160)
3. Contributions (§§ 23.20.165—23.20.278)
4. Experience Rating (§§ 23.20.280—23.20.310)
5. Coverage (§§ 23.20.315—23.20.326)
6. Benefits (§§ 23.20.330—23.20.405)
6A. Extended Unemployment Compensation (§§ 23.20.406—23.20.409)
7. Appeals (§§ 23.20.410—23.20.470)
8. General Provisions (§§ 23.20.475—23.20.535)

Article 1. Administration.

Section
5. Purpose
10. Policy
12. Policy on temporary unemployment compensation
15. Annual report
20. Maintenance and protection of fund
25. Establishment of Employment Security Advisory Council
30. Director
35. Duties and powers of director
40. Qualifications of director
45. Regulations and special rules
50. Publications
55. Department records
60. Oaths and witnesses
65. Subpoenas
70. Self-incrimination
75. Acquisition of land and buildings
80. Federal-state cooperation
85. Interstate benefit payments
90. Reciprocal coverage and cooperation
95. Exchange of services, facilities and information
100. Employment service
105. Employing units to keep records and reports
110. Information obtained by department
115. Unauthorized disclosure of information
120. Examination of bank
125. [Repealed]

Sec. 23.20.005. Purpose. (a) This chapter shall be liberally construed to accomplish its purposes to promote employment security by increasing opportunities for placement through the maintenance of a system of public employment offices and to provide through the accumulation of reserves for the payment of compensation to individuals with respect to their unemployment.

(b) The legislature declares its intention to provide for carrying out the purposes of this chapter in cooperation with the appro-

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSSB 318 (Labor & Commerce)

Title "An Act relating to Employment Services and Creation of Employment Opportunities..."

Requested by _____ Date May 13, 1981

II. FISCAL DETAIL

Agency Affected Department of Community & Regional Affairs

Program Category Affected Employment Stabilization

BRU, Program, or Subprogram(s) Affected CETA

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		1,893.4	2,044.8	2,208.4	2,385.1	2,575.9
200	TRAVEL		211.2	228.1	246.3	266.0	287.3
300	CONTRACTUAL		15,387.9	30,004.9	32,404.9	34,997.3	37,797.1
400	COMMODITIES		7.1	7.7	8.3	9.0	9.7
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		17,499.6	32,285.1	34,867.9	37,657.4	40,670.0

FUNDING (Thousands of Dollars)

GENERAL FUND		17,499.6	32,285.1	34,867.9	37,657.4	40,670.0
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		52*	52*	52*	52*	52*
PART TIME						
TEMPORARY						

*denotes 52 full-time equivalent positions which are either currently vacant or will become vacant with the reductions of federal funds.

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

CSSB 318 consists of employment and training activities to meet the needs of employers for an appropriately skilled work force and to assist in the continuation of economic growth in the state while assuring that Alaskans are hired in jobs created by this economic growth. The enactment of this bill will increase and redefine the workload of the Department of Community & Regional Affairs for FY-82. It has been estimated that there will be an increase in statutory responsibilities for the Department which will amount to approximately 52 full-time equivalent positions. The enactment of this bill will not result in the addition of new positions within the Department. This program, as administered by the Department, will not be duplicative of any federal program, but will complement current federal efforts within the state in this broad area.

IV. DATE May 13, 1981 PREPARED BY Lois A. Lind

AGENCY CETA

PHONE 465-4890

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

The following assumptions have been utilized in the preparation of this analysis:

1) This program will be operated on a statewide basis;
2) The operation of this program will be implemented and coordinated through five regional offices in order to increase local involvement and cooperation and to keep the program responsive to local employer needs;
3) This program will no. supplant or duplicate the federally-funded CETA program, but will complement the efforts to the private sector;
4) The Department of Community & Regional Affairs will coordinate the recruitment and referral of persons for this program through the Alaska Department of Labor;
5) The planning and implementation of this program will be coordinated through the Alaska Private Industry Council;
6) This program will be evaluated during all phases of operation by eva uation instruments to be developed for the Department of Community and Regional Affairs. This evaluation will consist of both narrative and statistical analysis;
7) The FY-82 program will not be a full-year operation due to the necessary start-up time;
8) The FY-83 program will be a full-year operation and the contracted program delivery costs will be significantly greater;
9) Total funding utilized for the contracting of program delivery will be $15,093,000 for the first year, and $29,686,000 for the second year of program delivery.
10) For FY-82, approximately 3,500 individuals will be provided work-site training opportunities, including classroom instruction, internship programs, and vocational exploration. The number of individuals will increase to 6,800 per year in FY-83;
11) In consultation with the Alaska Private Industry Council (APIC), the Department of Community & Regional Affairs will restructure the Division which administers this program in order to more effectively deliver the Alaska State Supplemental Employment and Training program;
12) The Department of Community & Regional Affairs will engage in the following activities under this program:
    a) contract on a competitive basis to establish work-site training, classroom instruction, internship, and vocational exploration programs [AS 23.15.710(a)(3), (4), .710(b), .730(1), (3)];
    b) enter into contracts/agreements on a competitive basis to identify and further the goals of this program;
    c) promulgate regulations to implement this program;
    d) administer the Work-Site Training program [AS 23.15.720] and the Youth Programs [AS 23.15.730(1) and (3)];
    e) Conduct the Evaluation Procedures [AS 23.15.710(a)(5) and 740].

13) The following sections of this bill, it is assumed, will be conducted by the Department of Labor:
    a) occupational demand and supply survey [AS 23.15.710(a)(1)];
    b) labor exchange activities [AS 23.15.710(a)(2)];
    c) counseling programs within the schools [AS 23.15.730(2)]
14) This Fiscal Note is to be considered in conjunction with that submitted by the Department of Labor to calculate the total costs of this program.
15) An inflation factor of 8 percent has been used for the succeeding years' projected expenditures.

THE TOTAL COSTS OF CSSB 318 UNDER THESE ASSUMPTIONS:	$17,499,717
ADMINISTRATIVE COSTS REQUIRED BY THE DEPARTMENT OF C&RA:	
Personnel Services (including approximately 52 full-time equivalent positions:	$ 1,893,419
Travel necessary for the promotion and implementation of the ASSET program:	211,212
Contractual (phone charges, copy costs, printing, equipment rental, space rental, professional services, etc.):	294,963
Commodities:	7,123
Total Administrative Costs:	$ 2,406,717
Total Program Funds (Contractual: 300)	$15,093,000

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS Senate Bill No. 318

Title "An Act establishing the Alaska State Supplemental Employment and Training...

Requested by Senate Labor and Commerce Committee Date 5/13/81

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Employment Stabilization

BRU, Program, or Subprogram(s) Affected Employment Services

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		605.7	733.5	792.2	855.6	924.0
200 TRAVEL		49.1	61.5	66.4	71.7	77.4
300 CONTRACTUAL		790.7	1,259.3	1,360.0	1,468.8	1,586.3
400 COMMODITIES		16.8	19.4	21.0	22.7	24.5
500 EQUIPMENT		7.6	2.1	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	1,469.9	2,075.8	2,239.6	2,418.8	2,612.2

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	1,469.9	2,075.8	2,239.6	2,418.8	2,612.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	16	18	18	18	18
PART TIME						
TEMPORARY						

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

1. Assumes an effective date of July 1, 1981.
2. Personal Services at current salary rates.
3. Travel, Contractual Services, Commodities and Equipment are based on cost per position with the exception of:
   a. Contract with the DOL's Research and Analysis Section for evaluation of the school counseling program $85.0.
   b. Contract with the Department of Education for program liason and on-site monitoring $191.5.
   c. Data Processing Cost of $11.7.
   d. Contracts for Employment Assessment

	FY '82	FY '83
	$ 252.0	$ 544.3
	$ 100.0	$ 216.0

IV. DATE 5/13/81 PREPARED BY Nico Bus, Finance Officer

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

4. Assumes an annual inflation factor of 8% for all items.

5. The number of individuals to be served is outlined in the assumptions contained in the Department of Comunity and Regional Affairs fiscal note.

6. To meet the requirements of this legislation, funding for the following components is requested.

I. Support to Basic Labor Exchange: $778.9 (FY '82).

Purchases: 1 Management Analyst III, 5 Employment Security Specialists IB, 2 Employment Security Specialists II (in FY '82) with an additional 2 Employment Security Specialist IB's in FY '83 contracts for Employment Assessment, and Job Seekers Mobility Exchange.

Support to Basic Labor Exchange: is the process of identifying and assisting individuals who cannot be immediately placed into jobs. Within this component are (a) provision of employment counseling and development of plans to increase employability, (b) mechanisms for referral of individuals to support programs (such as other components of Community and Regional Affairs Worksite, Internship and youth programs, WIN, CETA, etc.), (c) mechanisms for provisions of financial assistance necessary to relocate Alaskan residents who are hired by Alaskan employers, and (d) the collection and dissemination of state-wide Labor Market and Job Market information.

Another element of this support involves services to employers such as EEO training and Personnel policies and procedures training.

II. School to work transition program $691.0 (FY '82).

Purchases: 4 Counselors I and 4 Counselors II and Evaluation Services from the Department of Labor's Research and Analysis Section plus a contract with the Department of Education for program liaison and on-site monitoring.

Through this program Alaska Department of Labor Employment Counselors would be stationed in high schools to provide career employment guidance and counseling and subsequent job development and placement services for high school students. By stationing these Employment Counselors in the schools, the link between the educational community and the world of work will be strengthened.

This "School To Work" project will involve the Department of Education for liaison assistance, setting up the program, negotiating with local education agencies, site selection, and monitoring. Four major sites with four satellites will be selected.

A long term evaluation model would be set up by Department of Labor's Research and Analysis section which will monitor the success of this project. A five year statistical study will sample participants and non-participants over time to determine their successful entry into and progress within the labor force.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Management Analyst III	18 C	GGU	Juneau	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.; PCN No.	Priority		Form 12 page/line	Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	43,251
9.	Travel	02	3,937
10.	Contractual	03	12,647
11.	Commodities	04	600
12.	Equipment	05	950
13.	Other		
14.	Total Cost		61,385

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	61,385
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

Provide Central Office coordination, analysis and reporting processes. This position would also disseminate information about the program and arrange media contracts.

This position would be the chief negotiator for the program and would be the contact person to develop the inter-agency cooperative agreements. The position would negotiate contracts for labor force identification, labor pool facilitators, and other labor exchange support services with other vendors.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

REVISED DATE _____

PAGE 1 OF 1

FY 82

12 REQUEST FOR NEW POSITION.

CA Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB				14 C	GGU	Fairbanks	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,455 per month		29,460	
5.	Benefits		4,675	
6.	FICA		1,806	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		37,741
9.	Travel	02		3,937
10.	Contractual	03		10,863
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			54,091

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,091
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

This position, though based in Fairbanks would travel extensively throughout Northern Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arrange the provision of Employment Services, such as EEO and personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

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FY 82

13 REQUEST FOR NEW POSITION.

CA Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location	Gov.	Approv.	Disapp.
1.	Employment Security Specialist II	15 C	GGU	Anchorage			

	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line	Leg.		
2.	PFT	12							

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492	
5.	Benefits		4,363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		3,937
10.	Contractual	03		11,416
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			52,243

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	52,243
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR Bud USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position, though based in Anchorage, would travel extensively throughout Southcentral Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arragne the provision of Employment Services, such as EEO and personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist II	15 C	GGU	Juneau	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.; PCN No.	Priority		Form 12 page/line	Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month	27,492	
5.	Benefits	4,363	
6.	FICA	1,685	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	35,340
9.	Travel	02	3,937
10.	Contractual	03	11,416
11.	Commodities	04	600
12.	Equipment	05	950
13.	Other		
14.	Total Cost		52,243

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	52,243
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

This position, though based in Juneau, would travel extensively throughout Southeast Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arrange the provision of Employment Services, such as EEO personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS Based on average cost per position.

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4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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FY 82

12 REQUEST FOR NEW POSITION.

CC Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB			14 C		Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,135 per month		25,620	
5.	Benefits		4,066	
6.	FICA		1,571	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		33,057
9.	Travel	02		3,937
10.	Contractual	03		11,064
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			49,608

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,608
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

These positions would be based for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security St[illegible]t IB			14 C		Anchorage	Gov.		
	Type of Position	Staff	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,135 per month		25,620	
5.	Benefits		4[illegible]56	
6.	FICA		1,571	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		33,057
9.	Travel	02		3,937
10.	Contractual	03		11,064
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			49,608

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,608
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor

PROGRAM Employment Stabilization

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12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB			14 C		Ketchikan	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,135 per month		25,620	
5.	Benefits		4,066	
6.	FICA		1,571	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		33,057
9.	Travel	02		3,937
10.	Contractual	03		11,064
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			49,608

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,608
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cash per position.

AGENCY Labor

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BRU Employment Services

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12 REQUEST FOR NEW POSITION

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB				14 C		Fairbanks	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,640 per mnth		31,680	
5.	Benefits		5,028	
6.	FICA		1,942	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		40,450
9.	Travel	02		3,937
10.	Contractual	03		12,203
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			58,140

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	58,140
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

AGENCY Labor

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BRU Employment Services

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12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II				16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure		Amount
	1	2	3
	Personal Services:		
4.	Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	43,251
9.	Travel	02	2,200
10.	Contractual	03	7,972
11.	Commodities	04	1,500
12.	Equipment	05	
13.	Other		
14.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II			16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,837 per month		34,044	
5.	Benefits		5,403	
6.	FICA		2,004	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		43,251
9.	Travel	02		2,200
10.	Contractual	03		7,972
11.	Commodities	04		1,500
12.	Equipment	05		
13.	Other			
14.	Total Cost			54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

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NPS based on average cost per position, rent not included to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II	16 C	GGU	1/	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.; PCN No.	Priority	Form 12 page/line		Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,837 per month		34,044	
5.	Benefits		5,403	
6.	FICA		2,004	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		43,251
9.	Travel	02		2,200
10.	Contractual	03		7,972
11.	Commodities	04		1 500
12.	Equipment	05		
13.	Other			
14.	Total Cost			54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

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NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II	16 C	GGU	1/	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.; PCN No.	Priority		Form 12 page/line	Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services 01		43,251
9.	Travel 02		2,200
10.	Contractual 03		7,972
11.	Commodities 04		1,500
12.	Equipment 05		
13.	Other		
14.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I	13 C	GGU	1/	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 12				Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,291 per month		27,492	
5.	Benefits		4.363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		2,200
10.	Contractual	03		6,741
11.	Commodities	04		1,500
12.	Equipment	05		
13.	Other			
14.	Total Cost			45,781

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I	13 C	GGU	1/	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.; PCN No.	Priority	Form 12 page/line		Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services: Salary 2,291 per month	27,492	
5.	Benefits	4,363	
6.	FICA	1,685	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	35,340
9.	Travel	02	2,200
10.	Contractual	03	6,741
11.	Commodities	04	1,500
12.	Equipment	05	
13.	Other		
14.	Total Cost		45,781

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

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2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I				13 C	GGU	1/	Gov.		
2.	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line	Leg.		
	PFT	12								

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492	
5.	Benefits		4.363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		2,200
10.	Contractual	03		6,741
11.	Commodities	04		1,500
12.	Equipment	05		
13.	Other			
14.	Total Cost			45,781

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

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BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I				13 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492	
5.	Benefits		4.363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		2,200
10.	Contractual	03		6,741
11.	Commodities	04		1,500
12.	Equipment	05		
13.	Other			
14.	Total Cost			45,781

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Employment Stabilization

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

REVISED DATE _____

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FY 82

13 REQUEST FOR NEW POSITION.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS Senate Bill No. 318
Title "An Act establishing the Alaska State Supplemental Employment and Training...
Requested by Senate Labor and Commerce Committee Date 5/13/81

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Social Services
BRU, Program, or Subprogram(s) Affected Administrative Services, LMI
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		344.2	371.7	401.4	433.5	468.2
200	TRAVEL		21.2	22.9	24.7	26.7	28.8
300	CONTRACTUAL		240.5	259.7	280.5	302.9	327.1
400	COMMODITIES		10.3	11.1	12.0	13.0	14.1
500	EQUIPMENT		19.0	0	0	0	0
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	635.2	665.4	718.6	776.1	838.2

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	550.2	576.6	622.7	672.5	726.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
Inter Agency	-0-	85.0	88.8	95.9	103.6	111.9

POSITIONS

FULL TIME	-0-	11	10.5	10.5	10.5	10.5
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
1. Assumes an effective date of July 1, 1981.
2. Personal Services based on current salary schedule, with allowance of vacancy factor in FY '82.
3. Travel, Contractual Services, Commodities and Equipment are based on cost per position with the exception of Data Processing cost of $120,000 which is based on an estimate for a Time Sharing operation.
4. Assumes an annual inflation factor of 8% for all line items.
5. To meet the requirements of this legislation, funding for the following information components is requested:

REGIONAL ECONOMIC FORECAST BY INDUSTRY $230,998 (FY '82)

The large geographic size of Alaska makes it probable that some regions could have severe shortages of workers while other areas lack economic activity For the past three years the Research and Analysis Section has developed and improved the employment data base for

IV. DATE 5/13/81 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

six regions of the state. This permitted more accurate sub-state regional estimates of employment by industry, labor force and unemployment. Both published and nondisclosable (due to confidentiality restrictions of Alaska's Unemployment Insurance Law) data are contained in this data base.

This component would provide staff to analyze and forecast employment, labor force, and unemployment information for the six regions of the State. With computer assistance, staff would determine the trend and level of economic activity by industry and enable the operation of an industry/occupation matrix to provide occupational forecasts by industry for the six regions.

Purchases: Labor Economist III, 2 Labor Economists II's, Clerical & Data Processing Services

EXPANDED OCCUPATIONAL EMPLOYMENT STATISTICS $91,809 (FY '82)

For much of the past decade Research and Analysis has estimated and projected employment (staffing levels) by occupation. Occupational data from an employer survey is merged with the employment forecast by industry to prepare forecasts of occupational employment.

This component would provide staff to provide occupational forecasts by industry for the six regions of Alaska. Industrial detail used would be expanded to provide for more accurate estimates. For example, more detail in the mining industry, would isolate coal and hard rock mining from oil and gas extraction. This would permit more accurate forecasts of the occupations involved if those sub-industries grew at different rates.

Purchases: 1 Labor Economist II, Data Processing and Clerical Services

ANALYSIS OF UI AND ES DATA BASES $41,637 (FY '82)

In the first year of the legislation only, the agency proposes a small increment to analyze how best to utilize the Unemployment Insurance (UI) and Employment Service (ES) data bases for dynamic indicators of unemployment and employee turnover. Potentially, these two data bases could give insight into the mobility and labor force attachment of Alaska's population. Both cross sectional (one point in time) and longitudinal (between different time periods) analysis is feasible. However, some of this analysis has only been done in a few states and the uniqueness of each state's unemployment insurance data base makes it appropriate to limit the study to determining feasible methodologies in the first year.

Purchases: 0.5 Labor Economist III, Clerical and Data Processing Support

MIGRATION STUDY $78,312 (FY '82)

Any analysis of Alaska's labor force supply would be inadequate without considering the impact of migration (both inmigration and outmigration). Migration flows are triggered both by push (lack of available opportunities in the area from which migration emanates) and pull (more lucrative opportunities in the area which receives the migration) factors. Interstate analysis of the factors which correlate with migration would be necessary (for example, construction employment in other western states). Modeling the migration component would give insight into the appropriate timing of large capital projects.

Purchases: 1 Labor Economist II and Clerical and Data Processing Support

EXPANDED ALASKA OCCUPATIONAL INFORMATION $70,657 (FY '82)

The Alaska Career Information system provided Labor Market Information about careers and occupations in Alaska to a broad spectrum of users.

This additional position would allow for an expanded, more detailed treatment of the worker supply and demand descriptions. State-wide information would be broken down for users on a more site specific basis to include at minimum Anchorage and Fairbanks. Coverage would be broadened by adding additional occupations. The development and implementation of the planning component for use by vocational and economic planning would be accelerated.

Purchases: Labor Economist II, Data Processing and Clerical Support.

HOUSEHOLD SURVEY METHODS TEST $36,755 (FY '82)

The following items would be accomplished with this component:

1. Interviews of program staff. Determine what information about the potential labor force is required for successful program administration.

2. Design Survey questionaire.

3. Test sample. Two communities would be sampled to test the questionaire; test programs of data entry, and retreival; obtain accurate cost estimates; provide sample formatted output to program administrators.

4. Sample data review. Program administrators would be interviewed about the usefulness of the sample data and a decision would be reached to either seek funding for an expanded sample, modify the survey methods then seek funding to implement, or to scrap the project based on cost benefit.

Purchases: 0.25 Labor Economist II, 0.50 Data Control Clerk and Data Processing Services.

EVALUATION $35,000

Project monitoring will be the responsibility of the staff from DOE/DOL. The Research and Analysis Section of DOL will establish a survey to monitor and measure the effectiveness of the program. The survey will compare those who participate in the program with those who do not in terms of weeks of unemployment, employment salaries received, job satisfaction, as well as those who pursue additional education as part of their overall plan. The survey will be conducted over a two-year period to identify the more longterm results. Third party evaluation will consist of a team review based upon the project objectives. The team selection will be determined by DOE/DOL staff and shall consist of people within the outside the Departments.

These components are interrelated with each other and with other information systems within our Research and Analysis Section. Integration of this complete information system will provide an excellent framework for agencies to determine both the needs of the labor force and the likely job outlook.

Purchases: Labor Economist III, Statistical Clerk, Data Processing.

Most of these components have been requested in House Bill 509. If both bills pass it will result in a duplicate funding of $442.8 (FY '82) which needs to be adjusted.

Component: Regional Forecast CS Senate Bill No. 318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist III	18B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority	Form 12 page/line				
2.	PFT / 12				Leg.		

3. Type of Expenditure		1	2	Amount 3
	Personal Services:			
4.	Salary 2,736 per month		32,832	
5.	Benefits		5,211	
6.	FICA		2,004	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		41,847
9.	Travel	02		2,400
10.	Contractual	03		11,941
11.	Commodities	04		1,000
12.	Equipment	05		3,084
13.	Other			
14.	Total Cost			60,272

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	60,272
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

This position is responsible for overseeing the development maintenance and utilization of econometric modeling systems and techniques used in production of employment projections by industry and region. This position will hire, train and direct the work of two to three professional staff members. In conjunction with subordinate staff, this position will provide for collection and analysis of current economic development information and maintenance of a data base used in the production of statewide and regional employment forecasts. These forecasts are a prerequisite to development of regional occupational forecasts. Thus, analysis of the effect various policy options would have on the state's labor force is contingent and successful development of this informational component.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

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FY 82

13 REQUEST FOR NEW POSITION.

Component: Regional Forecasts 05 Budget Sub-Unit: 010

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II'				16B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,378 per month		28,536	
5.	Benefits		4,529	
6.	FICA		1,749	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		36,614
9.	Travel	02		2,400
10.	Contractual	03		11,134
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			53,088

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	53,088
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position is required for the preparation of regional employment forecasts consistent with the needs of the occupational employment estimates program structure. These forecasts must be by detailed industry category information for an occupational matrix used to generate detailed estimates of occupational demand. This Labor Economist must regionalize the employment estimates so that detailed occupational demand figures for six regions are available for the matrix. The estimates of regional employment growth must be consistent with statewide totals of industry growth which will require that the development of closely coordinated employment projections.

In order to produce detailed and reliable forecasts extensive and continuing analyses of the labor market areas will be required. Research into historical data, current trends and econometric techniques will be an integral part of the positions work.

This position will be stationed in Juneau and will be responsible for forecasts of the Alaska Southeast region.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

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FY 82

12 REQUEST FOR NEW POSITION.

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II			16B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	11					Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,378 per month		26,158	
5.	Benefits 15.87		4,151	
6.	FICA .0613		1,603	
7.	Health Ins. 150		1,650	
8.	Total Personal Services	01		33,562
9.	Travel	02		2,400
10.	Contractual	03		10,687
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			49,589

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,589
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position's primary function is to develop occupational demand estimates for sub-state regions. The existing occupational information program (which has been in place and operating for almost a decade) provides detailed occupational estimates for the state as a whole and the Anchorage and Fairbanks labor market areas. The services of a Labor Economist II is required in order to develop occupational estimates and projections for additional geographic areas. These smaller regions (in terms of employment) present major problems and work elements with regard to methodology development, production of estimates, continual monitoring and measuring of estimating accuracy and development of revised estimating proceedures. This information and services provided through the efforts of this positior is crucial to effective regional manpower planning.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

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FY 82

12 REQUEST FOR NEW POSITION.

Component: Regional Forecast SB Senate Bill No. 518

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	16B	GGU	Anchorage	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 11				Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 2,378 per month	26,158	
5.	Benefits	4,151	
6.	FICA	1,603	
7.	Health Ins.	1,650	
8.	Total Personal Services	01	33,562
9.	Travel	02	2,400
10.	Contractual	03	10,687
11.	Commodities	04	1,000
12.	Equipment	05	1,940
13.	Other		
14.	Total Cost		49,589

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,589
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position is required for the preparation of regional employment forecasts consistent with the needs of the occupational employment estimates program structure. These forecasts must be by detailed industry category information for an occupational matrix used to generate detailed estimates of occupational demand. This Labor Economist must regionalize the employment estimates so that detailed occupational demand figures for six regions are available for the matrix. The estimates of regional employment growth must be consistent with statewide totals of industry growth which will require that the development of closely coordinated employment projections.

In order to produce detailed and reliable forecasts extensive and continuing analyses of the labor market areas will be required. Research into historical data, current trends and econometric techniques will be an integral part of the positions work.

This position will be stationed in Juneau and will be responsible for forecasts of the Alaska Southeast region.

The average non-personal services costs for the Labor Market Information program are indicated the major costs, in the contractual area are rent, indirect, and printing.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

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FY 82

13 REQUEST FOR NEW POSITION.

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	168	GGU	Juneau	Gov.		
	Type of Position	**Staff Months**	**RP No.**	**PCN No.**	**Priority**	**Form 12 page/line**	
2.	PFT	10					Leg.

3.	Type of Expenditure		Amount
	1	2	3
4.	Personal Services: Salary 2,378 per month	23,780	
5.	Benefits	3,774	
6.	FICA	1,458	
7.	Health Ins.	1,500	
8.	Total Personal Services 01		30,512
9.	Travel 02		2,400
10.	Contractual 03		10,240
11.	Commodities 04		1,000
12.	Equipment 05		1,940
13.	Other		
14.	Total Cost		46,092

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	46,092
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This posicion will work under the supervision of the state demographer (PCN 1717) to produce and maintain a complete model of migration. This model would require interstate analysis of occupational demand, and demographic analyis of pupulation cohortts.

Migration flows will be estimated and forecast by this position.

These forecasts will be an important component of the Alaska Jobs Information Bank, wh ch will provide information necessary for policy making.

The average non-personal services costs for the Labor Market Information Program are incl ed. The major costs in the contractual area are rent, indirect and printing.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Clerk Typist III	8B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority	Form 12 page/line				
2.	PFT / 12				Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 1,433 per month	17,196	
5.	Benefits	2,729	
6.	FICA	1,054	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	22,779
9.	Travel	02	-0-
10.	Contractual	03	10,807
11.	Commodities	04	1,000
12.	Equipment	05	1,513
13.	Other		
14.	Total Cost		36,099

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	36,099
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will provide clerical support to the regional forecasting, occupational employment estimates and migration analysis programs. Typing of reports, correspondence and survey analysis will be the position's primary responsibility. Entering employment data into the computer data base will also be required. Mailing and processing of forms necessary for the expanded occupational supply and demand information system will be an additional responsibility.

The average non-personal services costs for the Labor Market Information Program are included. The major costs in the contractual area are rent, indirect and lease of a 1202 Lexitron editor.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

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FY 82

12 REQUEST FOR NEW POSITION

Component: Analysis of UI and ES Data Base CS Senate Bill No. 318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist III	18 B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 6 / / 5305				Leg.		

3. Type of Expenditure	1	2	Amount 3
Personal Services:			
4. Salary 2736 x 6		16,416	
5. Benefits 15.87%		2,605	
6. FICA .0613		1,006	
7. Health Ins. 150 x 6		900	
8. Total Personal Services	01		20,927
9. Travel	02		1,200
10. Contractual	03		5,400
11. Commodities	04		500
12. Equipment	05		
13. Other			
14. Total Cost			28,027

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	28,027
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

Analysis of UI and ES Data Bases

Six Months

Travel		$1,200
Prem. Rent	$ 1,350	
Printing	500	
Communications	500	
Indirect Support	3,050	
[18.79% of PS]		$5,400
Commodities		$ 500

NOTE: FY '82 only!

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II			16 B	GGU	Juneau	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,378 per month		28,536	
5.	Benefits		4,529	
6.	FICA		1,749	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		36,614
9.	Travel	02		2,400
10.	Contractual	03		11,134
11.	Commodities	04		1,000
12.	Equipment	05		1,940
13.	Other			
14.	Total Cost			53,088

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	53,088
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

This position will prepare descriptions of occupations common to Alaska. This will require obtaining information from employers, educational institutions and the occupational employment statistics program.

The descriptions will be formatted by this position, to meet the requirements of the Career Information System.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp
1.	Data Control Clerk'	9 B	GGU	Juneau	Gov.		
	Type of Position	**Staff Months**	**RP No.**	**PCN No.**	**Priority**	**Form 12 page/line**	
2.						Leg.	

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 1,521 per month	18,252	
5.	Benefits	2,897	
6.	FICA	1,119	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	24,068
9.	Travel	02	-0-
10.	Contractual	03	8,130
11.	Commodities	04	1,000
12.	Equipment	05	1,940
13.	Other		
14.	Total Cost		35,138

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	35,138
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

This position will prepare descriptions of occupations common to Alaska. This will require obtaining information from employers, educational institutions and the occupational employment statistics program.

The descriptions will be formatted, by this position, to meet the requirements of the Career Information System.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Labor Economist II	16 B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 3 / / 1714				Leg.		

3. Type of Expenditure	1	2	Amount 3
Personal Services:			
4. Salary 2,378 per month		7,134	
5. Benefits		1,132	
6. FICA		437	
7. Health Ins.		450	
8. Total Personal Services	01		9,153
9. Travel	02		2,000
10. Contractual	03		2,783
11. Commodities	04		250
12. Equipment	05		
13. Other			
14. Total Cost			14,186

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	14,186
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

This position will prepare descriptions of occupations common to Alaska. This will require obtaining information from employers, educational institutions and the occupational employment statistics program.

The descriptions will be formatted, by this position, to meet the requirements of the Career Information System.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

12 REQUEST FOR NEW POSITION.

Component: Evaluation
CS Senate Bill #312

1.	Position Title Labor Economist II			Range/Step 18 B	Barg. Unit GGU	Location Juneau	Gov.	Approv.	Disapp.
2.	Type of Position PFT	Staff Months 12	RP No.	PCN No.	Priority	Form 12 page/line	Leg.		

3. Type of Expenditure	1	2	Amount 3
Personal Services:			
4. Salary 2,736 per month		32,832	
5. Benefits		5,211	
6. FICA		2,004	
7. Health Ins.		1,800	
8. Total Personal Services	01		41,847
9. Travel	02		2,400
10. Contractual	03		11,941
11. Commodities	04		1,000
12. Equipment	0		1,940
13. Other			
14. Total Cost			59,128

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	
18.	907	I-A RCPTS. 1005	59,128
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will design and implement an evaluation program to measure the effectiveness of the school to work transition program. The incumbent will analyze data from survey of program graduates to compare their labor force status, wages and job satisfaction to non-participants.

NPS is cost per position for this component.

AGENCY Labor

PROGRAM Social Services

BRU Administrative Services

COMPONENT Labor Market Information

REVISED DATE _____

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FY 82

12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Statistical Clerk	10 B	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/ line			
2.	PFT 6				Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 1,613 per month		9,678	
5.	Benefits		1,536	
6.	FICA		593	
7.	Health Ins.		900	
8.	Total Personal Services	01		12,707
9.	Travel	02		1,200
10.	Contractual	03		10,615
11.	Commodities	04		500
12.	Equipment	05		850
13.	Other			
14.	Total Cost			25,872

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.		GEN. FUND 1004	
18.	907	I-A RCPTS. 1005	25,872
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position will work under the supervision of a labor economist on a survey of school to work transition program graduates. The incumbent will mail and tabulate survey results, and update program graduates addresses for the tracking.

NPS is cost per position for this component.

AGENCY Labor

PROGRAM Social Services

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COMPONENT Labor Market Information

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FY 82

12 REQUEST FOR NEW POSITION.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. CS Senate Bill No. 318
Title "An Act establishing the Alaska State Supplemental Employment and Training...
Requested by Senate Labor and Commerce Committee Date 5/13/81

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Social Services
BRU, Program, or Subprogram(s) Affected Employment Services
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		605.7	733.5	792.2	855.6	924.0
200 TRAVEL		49.1	61.5	66.4	71.7	77.4
300 CONTRACTUAL		790.7	1,259.3	1,360.0	1,468.8	1,586.3
400 COMMODITIES		16.8	19.4	21.0	22.7	24.5
500 EQUIPMENT		7.6	2.1	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	1,469.9	2,075.8	2,239.6	2,418.8	2,612.2

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	1,469.9	2,075.8	2,239.6	2,418.8	2,612.2
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	16	18	18	18	18
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)
1. Assumes an effective date of July 1, 1981.
2. Personal Services at current salary rates.
3. Travel, Contractual Services, Commodities and Equipment are based on cost per position with the exception of:
   a. Contract with the DOL's Research and Analysis Section for evaluation of the school counseling program $85.0.
   b. Contract with the Department of Education for program liason and on-site monitoring $191.5.
   c. Data Processing Cost of $11.7.
   d. Contracts for Employment Assessment

FY '82	FY '83
$ 252.0	$ 544.3
$ 100.0	$ 216.0

IV. DATE 5/13/81 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

4. Assumes an annual inflation factor of 8% for all items.

5. The number of individuals to be served is outlined in the assumptions contained in the Department of Comunity and Regional Affairs fiscal note.

6. To meet the requirements of this legislation, funding for the following components is requested.

I. Support to Basic Labor Exchange: $778.9 (FY '82).

Purchases: 1 Management Analyst III, 5 Employment Security Specialists IB, 2 Employment Security Specialists II (in FY '82) with an additional 2 Employment Security Specialist IB's in FY '83 contracts for Employment Assessment, and Job Seekers Mobility Exchange.

Support to Basic Labor Exchange: is the process of identifying and assisting individuals who cannot be immediately placed into jobs. Within this component are (a) provision of employment counseling and development of plans to increase employability, (b) mechanisms for referral of individuals to support programs (such as other components of Community and Regional Affairs Worksite, Internship and youth programs, WIN, CETA, etc.), (c) mechanisms for provisions of financial assistance necessary to relocate Alaskan residents who are hired by Alaskan employers, and (d) the collection and dissemination of state-wide Labor Market and Job Market information.

Another element of this support involves services to employers such as EEO training and Personnel policies and procedures training.

II. School to work transition program $691.0 (FY '82).

Purchases: 4 Counselors I and 4 Counselors II and Evaluation Services from the Department of Labor's Research and Analysis Section plus a contract with the Department of Education for program liaison and on-site monitoring.

Through this program Alaska Department of Labor Employment Counselors would be stationed in high schools to provide career employment guidance and counseling and subsequent job development and placement services for high school students. By stationing these Employment Counselors in the schools, the link between the educational community and the world of work will be strengthened.

This "School To Work" project will involve the Department of Education for liaison assistance, setting up the program, negotiating with local education agencies, site selection, and monitoring. Four major sites with four satellites will be selected.

A long term evaluation model would be set up by Department of Labor's Research and Analysis section which will monitor the success of this project. A five year statistical study will sample participants and non-participants over time to determine their successful entry into and progress within the labor force.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Management Analyst III	18 C	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 12				Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	43,251
9.	Travel	02	3,937
10.	Contractual	03	12,647
11.	Commodities	04	600
12.	Equipment	05	950
13.	Other		
14.	Total Cost		61,385

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	61,385
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

Provide Central Office coordination, analysis and reporting processes. This position would also disseminate information about the program and arrange media contracts.

This position would be the chief negotiator for the program and would be the contact person to develop the inter-agency cooperative agreements. The position would negotiate contracts for labor force identification, labor pool facilitators, and other labor exchange support services with other vendors.

NPS based on average cost per position.

AGENCY Labor

PROGRAM Social Services

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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FY 82

12 REQUEST FOR NEW POSITION.

CA Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB			14 C	GGU	Fairbanks	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,455 per month		29,460	
5.	Benefits		4,675	
6.	FICA		1,806	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		37,741
9.	Travel	02		3,937
10.	Contractual	03		10,863
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			54,091

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,091
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position, though based in Fairbanks would travel extensively throughout Northern Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arrange the provision of Employment Services, such as EEO and personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS based on average cost per position.

AGENCY Labor

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12 REQUEST FOR NEW POSITION.

CA Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist II			15 C	GGU	Anchorage	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492	
5.	Benefits		4,363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		3,937
10.	Contractual	03		11,416
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			52,243

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	52,243
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position, though based in Anchorage, would travel extensively throughout Southcentral Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arragne the provision of Employment Services, such as EEO and personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS based on average cost per position.

AGENCY Labor

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FY 82

REQUEST FOR NEW POSITION

CS Senate Bill #3[illegible]

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist II	15 C	GGU	Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 12				Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492	
5.	Benefits		4,363	
6.	FICA		1,685	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		35,340
9.	Travel	02		3,937
10.	Contractual	03		11,416
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			52,243

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	52,243
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

This position, though based in Juneau, would travel extensively throughout Southeast Alaska. The position would be responsible for contacting employers to solicit job openings for the basic labor exchange, provide or arrange the provision of Employment Services, such as EEO personnel procedures training, and explain and set up slots for the intern, RSVP, and worksite training programs.

NPS Based on average cost per position.

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REQUEST FOR NEW POSITION

CC Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB	14 C		Juneau	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT 12				Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 2,135 per month	25,620	
5.	Benefits	4,066	
6.	FICA	1,371	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	33,057
9.	Travel	02	3,937
10.	Contractual	03	11,064
11.	Commodities	04	600
12.	Equipment	05	950
13.	Other		
14.	Total Cost		49,608

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,608
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

These positions would be based for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

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12 REQUEST FOR NEW POSITION

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB			14 C		Anchorage	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,135 per month		25,620	
5.	Benefits		4,066	
6.	FICA		1,571	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		33,057
9.	Travel	02		3,937
10.	Contractual	03		11,064
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			49,608

	CODE	FUNDING SOURCE		
15.		FED RECPT. 1002		
16.		GF MATCH. 1003		
17.	100	GEN. FUND 1004		49,608
18.		I-A RCPTS 1005		
19.		PGM RCPTS 1028		
20.		OTHER		
21.	CONTINUATION			
22.	ADDITION	X		

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

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FY 82

REQUEST FOR NEW POSITION

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB	14 C		Ketchikan	Gov.		
	Type of Position / Staff Months / RP No. / PCN No.	Priority		Form 12 page/line			
2.	PFT / 12				Leg.		

3.	Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,135 per month		25,620	
5.	Benefits		4,066	
6.	FICA		1,571	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		33,057
9.	Travel	02		3,937
10.	Contractual	03		11,064
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			49,608

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	49,608
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cash per position.

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

AGENCY Labor

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12 REQUEST FOR NEW POSITION

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Employment Security Specialist IB				14 C		Fairbanks	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,640 per mnth		31,680	
5.	Benefits		5,028	
6.	FICA		1,942	
7.	Health Ins.		1,800	
8.	Total Personal Services	01		40,450
9.	Travel	02		3,937
10.	Contractual	03		12,203
11.	Commodities	04		600
12.	Equipment	05		950
13.	Other			
14.	Total Cost			58,140

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	58,140
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

These positions would be used for labor force identification, referring individuals to job openings for which they are qualified, and providing other services which are part of the basic labor exchange. They may also arrange for referral to services which support the basic labor exchange. The positions will also identify persons who could participate in the worksite and intern programs.

NPS based on average cost per position.

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REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II				16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure		Amount
	1	2	3
4.	Personal Services: Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	43,251
9.	Travel	02	2,200
10.	Contractual	03	7,972
11.	Commodities	04	1,500
12.	Equipment	05	
13.	Other		
14.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

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13 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II				16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line				
2.	PFT	12						Leg.		

3.	Type of Expenditure		Amount
	1	2	3
4.	Personal Services:		
5.	Salary 2,837 per month	34,044	
6.	Benefits	5,403	
7.	FICA	2,004	
8.	Health Ins.	1,800	
9.	Total Personal Services	01	43,251
10.	Travel	02	2,200
11.	Contractual	03	7,972
12.	Commodities	04	1,500
13.	Equipment	05	
14.	Other		
15.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		P&M RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

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	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II			16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3. Type of Expenditure	1	2	Amount 3
	Personal Services:		
4.	Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services	01	43,251
9.	Travel	02	2,200
10.	Contractual	03	7,972
11.	Commodities	04	1,500
12.	Equipment	05	
13.	Other		
14.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1007	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

The duties of the Employment Counselors will incorporate the objectives of the project site and specifically include:

1. The provision of the full array of professional employment counseling services for participating youth to include individual and group counseling and guidance, test services, job seeking workshops, and job development and placement activities;

2. Management and maintenance of the project site;

3. Community involvement to elicit support and direction from employers, youth, agencies and schools;

4. Full participation within the project school site to include promotion of and presenting occupational related materials in classroom settings; and,

5. Establish linkages between project and existing employment exchange organizations to facilitate the job opportunities for youth.

NPS based on average cost per position, rent not included due to contract with the Department of Education.

1/ Location unknown, primarily in outlying schools.

AGENCY Labor

PROGRAM Social Services

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

REVISED DATE _____

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor II			16 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3.	Type of Expenditure		Amount
	1	2	3
4.	Personal Services: Salary 2,837 per month	34,044	
5.	Benefits	5,403	
6.	FICA	2,004	
7.	Health Ins.	1,800	
8.	Total Personal Services 01		43,251
9.	Travel 02		2,200
10.	Contractual 03		7,972
11.	Commodities 04		1,500
12.	Equipment 05		
13.	Other		
14.	Total Cost		54,923

	CODE	FUNDING SOURCE	
15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	54,923
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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AA KEY NUMBER _____ COLUMN NO. _____

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AGENCY Labor

PROGRAM Social Services

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title	Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I	13 C	GGU	1/	Gov.		
2.	Type of Position: PFT; Staff Months: 12; RP No.: ; PCN No.:	Priority:	Form 12 page/line:		Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month		27,492
5.	Benefits		4,363
6.	FICA		1,685
7.	Health Ins.		1,800
8.	Total Personal Services	01	35,340
9.	Travel	02	2,200
10.	Contractual	03	6,741
11.	Commodities	04	1,500
12.	Equipment	05	
13.	Other		
14.	Total Cost		45,781

	CODE	FUNDING SOURCE		
15.		FED RECPT. 1002		
16.		GF MATCH. 1003		
17.	100	GEN. FUND 1004		45,781
18.		I-A RCPTS. 1005		
19.		PGM RCPTS 1028		
20.		OTHER		
21.	CONTINUATION			
22.	ADDITION	X		

FOR B&M USE ONLY

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AGENCY Labor

PROGRAM Social Services

BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

REVISED DATE _____

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FY 82

REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I				13 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
2.	PFT	12						Leg.		

3.	Type of Expenditure	1	2	Amount 3
	Personal Services:			
4.	Salary 2,291 per month		27,492	
5.	Benefits		4,363	
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15.		FED RECPT. 1002	
16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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AGENCY Labor

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BRU Employment Services

COMPONENT Alaska State Supplemental Employment and Training

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FY 82

12 REQUEST FOR NEW POSITION.

CS Senate Bill #318

	Position Title			Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I			13 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority	Form 12 page/line			
2.	PFT	12					Leg.		

3. Type of Expenditure	1	2	Amount 3
4.	Personal Services: Salary 2,291 per month	27,492	
5.	Benefits	4.363	
6.	FICA	1,685	
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8.	Total Personal Services	01	35,340
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14.	Total Cost		45,781

	CODE	FUNDING SOURCE	
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16.		GF MATCH. 1003	
17.	100	GEN. FUND 1004	45,781
18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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COMPONENT Alaska State Supplemental Employment and Training

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FY 82

REQUEST FOR NEW POSITION

CS Senate Bill #318

	Position Title				Range/Step	Barg. Unit	Location		Approv.	Disapp.
1.	Counselor I				13 C	GGU	1/	Gov.		
	Type of Position	Staff Months	RP No.	PCN No.	Priority		Form 12 page/line			
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15.		FED RECPT. 1002	
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18.		I-A RCPTS. 1005	
19.		PGM RCPTS 1028	
20.		OTHER	
21.	CONTINUATION		
22.	ADDITION	X	

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AGENCY Labor

PROGRAM Social Services

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COMPONENT Alaska State Supplemental Employment and Training

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FY 82

12 REQUEST FOR NEW POSITION.

SB

319

STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Public Safety	Rules by Request of the Governor	SB319

Department Position

Support

Division Director	Date	Commissioner	Date
Col. Tom Anderson Robert J. Rowan	3-18-81	William R. Nix	3/18/81

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted	By	Date

SUMMARY

1. a) Related Bills (Similar or Conflicting	1. b) Other Agencies Affected by Bill
None	Community & Regional Affairs
2. a) Organizational Support for Bill	**2. b) Organizational Opposition to Bill**

3. Program Effects of Bill

Corrects deficiencies in present law.

4. Fiscal Impact: ☒ None ☐ Fiscal Note Attached

5. Amendments Proposed:

Page 4, Line 16, change to:
under AS 28.10.011(6), (7) or (12), upon application by that owner.

6. Comments:

This bill basically contains housekeeping measures which will enhance our operation by correcting problem areas we have experienced, and/or can foresee in the future.

Reason for proposed amendment is Sec. 7 of the bill will exempt a mobile home from registration. It should therefore be included in Sec. 10 of the bill allowing issuance of a title. If titles were not issued citizens would experience problems in obtaining financing through lending institutions.

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 319

The inclusion of sections 25-27, dealing with the industrial incentive tax credit, caused the act to violate the single subject rule, and the purpose of this bill is to eliminate possible constitutional problems.

Adds a new paragraph to AS 28.05.011 stating that regulations shall include but are not limited to (12) certification and regulation of vehicle body repair shops.

Amends AS 28.05.021 Compacts or agreements affecting State finances or driving privileges must be approved by a concurrent resolution approved by a majority vote of both houses before it becomes effective.

Amends AS 28.05.091 Changes the title of the Section to Impound of Vehicles; adds language that a vehicle whose vehicle identification number has been removed, defaced, or altered is an unlawful vehicle and may be impounded. Also states that the owner of a vehicle driven on a highway (roads) which is defective in equiptment and unsafe for driving shall pay the necessary costs of impounding and storing of the vehicle.

Amends AS 28.05.141 Court shall conduct a hearing limited to the issues raised at the hearing under section (a), deleting the wording which stated the court shall conduct a hearing "de novo".

Amends AS 28.10.011 Every vehicle (in the State) shall be registered under this chapter except when the vehicle is a mobile home.

Adds new section to AS 28.10.051 The Dept. may cancel, suspend, or revoke a title or registration if it has reasonable cause to believe the title or registration was obtained in violation of AS 28.10.491. A peace officer shall impound the vehicle, after the receipt of notification of temporary revocation, pending the notice and hearing provided under AS 28.05.131 (a).

SUMMARY SB 319 cont.

Amends AS 28.10.105 (f) (Staggered Registration) by stating that the registered owner of a vehicle may exercise the option of extended registration periods only once for each vehicle.

Amends AS 28.10.201(b) (Title Required; exceptions) by stating the owner of a vehicle which is exempt because of being driven or parked only on private property may be issued a title by the Dept. upon application.

Amends AS 28.15.181(a) (1) states that manslaughter or criminally negligent homicide resulting from the driving of a motor vehicle are grounds for immediate suspension or revocation of a drivers license. Amends subsection (a) (5) by stating that "driving while intoxicated" is grounds for immedtiate suspension. (presently "driving or operating a motor vehicle while under the influence of alcc ' or another drug").

Amendments made to AS 29.53.020 (Municipal Assesment and Taxation Required exemptions) relates to exemptions for residents 65 years or older, stating that one motor vehicle is exempt a year from taxation of its assessed value or from the registration tax. The State shall pay a borough or city for lost tax revenues, and that the Dept. of C&RA shall adopt regulations necessary to impliment the exemptions.

Repeals AS 28.10.411 (d) The Dept. of C&RA shall pay to the borough and to the city in which a person who is granted an exemption under this section resides, an amount equal to the tax levied under section 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

Provides Sections relating to senior citizens exemptions are retroactive to January 1, 1981. Provides that all other sections take effect immediately.

Section
examine applications, and administer oaths
51. Suspended or revoked documents
61. Records of department and certified copies of records
71 Change of name or address

Sec. 28.05.011. Duty of commissioner to adopt regulations. The commissioner shall, unless otherwise provided by statute, adopt regulations in compliance with the Administrative Procedure Act (AS 44.62) necessary to carry out the provisions of this title and other statutes the administration of which is vested in the department. The regulations shall include, but not be limited to:

(1) rules of the road relating to the driving, stopping, standing, parking and other conduct of vehicles, to pedestrians and to official traffic control devices;

(2) minimum equipment for vehicles, including, but not limited to, minimum standards of compliance to be met by manufacturers and vehicle sales and repairs businesses;

(3) inspection of vehicles, and the removal of vehicles from areas of public use when they are found to be in a defective or unsafe condition;

(4) registration, titling, transfer and abandonment of vehicles;

(5) licensing of drivers of vehicles;

(6) financial responsibility relating to vehicles;

(7) management of records of the department required for the administration of this title and regulations adopted under this title, including provisions for insuring the accuracy of information contained in automated and manual information retrieval systems;

(8) the operation of motor vehicle weighing stations and the enforcement of size, weight and load limitations, including the issuing of special permits and prescribing fees for special permits, based upon directives of the Department of Transportation and Public Facilities for prescribing or restricting conditions for the driving of vehicles when necessary to protect against undue damage to the road foundations, surfaces or structures;

(9) definitions of words and phrases used in this title and in regulations adopted under this title unless otherwise provided by statute;

(10) registration of motor vehicle, trailer, and semi-trailer dealers; and

(11) certification and regulation of junk yards. (§ 6 ch 178 SLA 1978)

Cross references. — See As 28.35.230 and AS 28.35.260. As to establishing limitations on weight and load of vehicles, see AS 19.10.060(1).

Editor's note. — The cases cited below were decided under former AS 28.05.030.

Power of commissioner includes regulation of motorcycle construction and safety apparel. — The power of the commissioner of public safety to adopt regulations governing rules of the road has been interpreted as including the regulation of motorcycle construction and safety apparel insofar as such regulations are reasonable and do not violate constitutional rights of the individual. Kingery v. Chapple Sup. Ct. Op. No. 858 (File No. 1554), 504 P.2d 831 (1972).

Wholesale frontal assault on traffic laws not intended. — Although the supreme court strongly presumes that most traffic regulations do in fact provide

reasonable behavior is negligence per se. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But see Claubaugh v. Bottcher, Sup. Ct. Op. No. 1235 (File No. 2481), 545 P.2d 172 (1976).

A violation of a statewide administrative traffic regulation adopted pursuant to statutory authority must be equated with a violation of a traffic statute itself. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971). But see Claubaugh v. Bottcher, Supp. Ct. Op. No. 1235 (File No. 2481), 545 P.2d 172 (1976).

Difference between negligence per se and mere evidence of negligence. — Assuming causation is shown, if a plaintiff proves that a defendant violated a traffic law prescribing a standard of reasonable behavior, and the defendant produces nothing to the contrary, plaintiff's case is then sufficiently strong to warrant a judgment in his favor. However, if the law is not held to establish a standard of reasonable behavior and its violation is further held merely to constitute evidence of negligence which may, but need not, be considered determinative by the trier of fact, the judge need not render a verdict for the plaintiff. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Judgment for plaintiff in absence of defense. — Unless the defendant offers evidence of some defense, judgment for the plaintiff will be required in those jurisdictions in which a traffic violation is negligence in itself. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Prima facie case satisfies burden of proof. — When the plaintiff establishes a prima facie case, that is enough to satisfy the burden of proof when the evidence is not in conflict. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Certain traffic violations may be excused. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

One such excuse can be that the violation was caused by outside forces, either man-made or natural, over which the actor had no control. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Contributory negligence. — Once a traffic violation has been proved, the defendant can offer any one of several defenses. For example, the contributory negligence of the plaintiff will be such a defense. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Violation excused under § 288A(2)(c) of Restatement. — If a trial court holds that a statute sets forth the standard of reasonable behavior and admits evidence of its violation, the court still may, in appropriate cases, permit the defendant to introduce evidence that although he did in fact violate the law, its meaning was so obscure or unreasonable that he acted with all due care in attempting to obey it. In this case his violation could be excused under § 288A(2)(c) of the Restatement. Ferrell v. Baxter, Sup. Ct. Op. No. 688 (File No. 1041), 484 P.2d 250 (1971).

Construction of 13 AAC 02.485(a). — Study of 13 AAC 02.485(a), which provides that "a driver of a vehicle may not back the vehicle unless the movement can be made with safety and without interfering with the traffic," and this section, under which this regulation was promulgated, reveals no reason why the regulation should be construed to prohibit an emergency excuse. Wilson v. Sibert, Sup. Ct. Op. No. 1151 (File No. 2165), 535 P.2d 1034 (1975).

Statutes may be enforced on streets not within state highway system. — The Department of Public Safety has the authority to enforce all traffic statutes and regulations upon dedicated or public subdivision streets, regardless of whether they are in the state highway system. 1965 Op. Att'y Gen., No. 10.

For application of rules and regulations governing roads and highways to military base in absence of federal statute, see Hundley v. United States, 15 Alas. 551, 131 F. Supp. 655 (D. Alas. 1955).

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 58; 5A Am. Jur., Automobiles and Highway Traffic, §§ 5 to 9.

60 C.J.S., Motor Vehicles, §§ 97 to 100.

Sec. 28.05.021. Commissioner to enter compacts and reciprocal agreements. The commissioner may, under terms and conditions best calculated to promote the interests of the state, enter into a compact or agreement with an authorized representative of another jurisdiction in a matter relating to driver licensing, vehicle registration, or other

commercially in the state does not comply with the requirements of this title or regulations adopted under this title or other statutes and regulations, he may, after giving 30 days notice to the person holding the certificate of approval for the equipment in this state, conduct a hearing upon the question of compliance of the equipment. After the hearing, the commissioner shall determine whether the equipment is in compliance. If the equipment is not in compliance with the law, the commissioner shall give notice of that fact to the person holding the certificate of approval for the equipment in this state.

(b) If, at the end of 90 days after the notice of noncompliance given under (a) of this section, the person holding the certificate of approval for the vehicle equipment has failed to satisfy the commissioner that the equipment as sold after the 90 days is in compliance with the law, the commissioner shall suspend or revoke the approval issued for the equipment until the equipment is resubmitted to, and retested by, a testing agency approved by the commissioner and is found to be in compliance with the law. The commissioner may, at the time of retest, purchase in the open market and submit to the testing agency one or more sets of the equipment. If the equipment upon retest fails to comply with the law, the commissioner may refuse to renew the certificate of approval of the equipment.

(c) After January 1, 1978, no motorcycle helmet may be manufactured or sold in this state which does not conform to standards established in regulations adopted by the commissioner. These regulations shall provide for helmets that allow normal peripheral vision and hearing and minimize neck injuries to the wearer potentially caused by the helmet. For the purposes of this section and § 11(2) of this chapter, a motorcycle helmet is considered to be vehicle equipment. (§ 6 ch 178 SLA 1978)

Sec. 28.05.091. Seizure of unsafe or defectively equipped vehicle. A motor vehicle which is driven on a highway or vehicular way or area, and which has been determined to be defective in equipment so as to be unsafe for driving, is an unlawful vehicle and may be impounded by a peace officer or an employee of the department officially designated for that purpose. The owner or person in lawful possession of the vehicle shall pay the necessary costs of impounding and storing the vehicle. The impounding of a vehicle is in addition to any other penalty. Nothing in this section prevents the driving or moving of a defective vehicle in the manner directed by the peace officer or employee to a place for

(1) the correction of a defect in the equipment;

(2) dismantling or wrecking; or

(3) storage without repair. (§ 6 ch 178 SLA 1978)

Editor's note. — This section derives from the language of AS 28.35.210, which is treated as repealed by this section.

Article 3. Subpoenas, Notices and Hearings.

Section
111. Subpoenas; witnesses and documents
121. Giving of notice
131. Opportunity for hearing required
141. Hearings and appeals

Sec. 28.05.111. Subpoenas; witnesses and documents. (a) The commissioner and officers and employees of the department designated by the commissioner may, for good cause, subpoena witnesses to give testimony under oath or to give written deposition upon a matter under the jurisdiction of the department with respect to this title, and regulations adopted under this title. A subpoena issued under this section may require the production of relevant books, papers, documents, records or other tangible things designated in the subpoena.

(b) A subpoena issued under this section shall be served at least five days before the return date, either by personal service made by a peace officer or another person who is not less than 18 years of age or by registered or certified mail. Return acknowledgment is required to prove service by mail. The fees for the attendance and travel of witnesses are the same as for witnesses appearing before the district court.

(c) A subpoena issued under this section may be enforced by the district court. (§ 6 ch 178 SLA 1978)

Sec. 28.05.121. Giving of notice. When the department is authorized or required to give notice under this title or regulations adopted under this title, unless a different method of giving notice is otherwise expressly provided, notice shall be given by a qualified person, either by personal delivery to the person to be notified or by registered or certified mail, return receipt requested, addressed to the person at his address as shown in the records of the department. The giving of notice by mail is considered complete upon the return of the receipt or upon return of the notice as undeliverable, refused, or unclaimed. Proof of the giving of notice in either manner may be made by the affidavit of the person giving the notice by personal delivery or by mail, naming the person to whom the notice was given and specifying the time, place, and manner of giving the notice. (§ 6 ch 178 SLA 1978)

Sec. 28.05.131. Opportunity for hearing required. (a) Unless otherwise specifically provided, or unless immediate action in suspending, revoking, cancelling, limiting, restricting, denying or impounding is necessary for the protection of the health, safety or welfare of the public, the department shall give notice of the opportunity for an administrative hearing before a license, registration, title, permit or privilege issued or allowed under this title or regulations adopted under this title is suspended, revoked, cancelled, limited, restricted or denied or a vehicle is impounded by the department. If action is required under this section and prior opportunity for a hearing cannot be afforded

hearing as soon after the action as possible to the parties concerned.

(b) The notice under this section shall state the reasons for the department's proposed action and provide for a reasonable attendance date of not less than 10 days after service of the notice. If there is no request for a hearing by the attendance date specified in the notice, the hearing is considered to have been waived. (§ 6 ch 178 SLA 1978)

Sec. 28.05.141. Hearings and appeals. (a) Unless otherwise specifically provided, all hearings required under this title or regulations adopted under this title shall be conducted by the department under regulations adopted by the commissioner governing practice and procedure and consistent with due process of law. Hearings shall be informal, and technical rules of evidence do not apply. A person who requests a hearing may retain an attorney if he so desires. The hearing officer shall be appointed by the commissioner and may be appointed from the department. A hearing officer need not be an attorney, but must be impartial and may not have participated in the decision which is under review. The hearing officer does not have to file a full opinion or make formal findings of fact or conclusions of law, but he must state the reasons for his determination and indicate the evidence relied upon. The proceedings at the hearing shall be recorded.

(b) A hearing ordered under (a) of this section shall be held at the office of the department nearest to the residence of the person requesting the hearing unless the department and the person agree that the hearing is to be held elsewhere. The department shall grant a hearing delay if the person presents good cause for the delay. If a person fails to appear for the hearing at the time and place stated by the department and if a hearing delay has not been granted, his failure to appear is considered a waiver of the hearing and the department may take appropriate action with respect to the person.

(c) If at the hearing under (a) of this section it appears that the record of the person sustains suspension, revocation, limitation, denial, or other remedial action, the hearing officer shall so order and the department may suspend, revoke, limit, deny, or take other remedial action against that person's license and, if appropriate, the department shall adjust the person's point total accumulated under AS 28.15.231.

(d) A person aggrieved by the decision of the hearing officer may, within 30 days, initiate a proceeding in district court to rescind the department's action by filing a notice of appeal in accordance with the applicable rules of court governing appeals in civil matters. The court shall conduct a hearing de novo. The decision of the department suspending, revoking, canceling, limiting, restricting or denying a license, registration, title, permit or privilege is stayed and does not take effect during the pendency of an appeal. (§ 6 ch 178 SLA 1978)

Article 4. Disposition of Certain Vehicle and Traffic Offenses.

Section
151. Form and issuance of citation

Sec. 28.05.151. Form and issuance of citation. (a) When a person is arrested or cited for the commission of a vehicle or traffic offense which is a misdemeanor or an infraction, the arresting or citing officer shall, except when otherwise required by law or the immediate circumstances, issue a citation to the person arrested or cited. The person receiving the citation may not be required to endorse the citation.

(b) The state supreme court shall determine by rule or order those vehicle and traffic offenses that are amenable to disposition without court appearance and shall establish a schedule of bail amounts, not to exceed fines prescribed by law, for each offense. If the offense for which the citation is issued is one which may be disposed of without court appearance, the citing officer shall write on the citation the amount of bail applicable to the cited offense.

(c) A person cited for a motor vehicle or traffic offense for which a bail amount has been established under (b) of this section may, within five days from the date of the citation, mail or personally deliver to the clerk of the court having jurisdiction over the place where the offense occurred

(1) the amount of bail indicated on the citation for that offense; and

(2) a copy of the citation signed by him on an appropriate blank on the citation indicating his waiver of appearance, plea of no contest, and direction to forfeit the bail.

(d) When bail has been forfeited under this section, a judgment of conviction shall be entered. Bail forfeited under this section is a complete satisfaction for the offense, and the offender shall be given a receipt stating that fact.

(e) If the person cited fails to pay the bail amount or appear in court as required, the citation shall be considered a summons as for a charge of a misdemeanor and he shall be proceeded against in the manner prescribed by law. However, the maximum penalty which may be imposed for the original offense may not exceed the bail amount for that offense set out in the schedule of bail amounts as determined by the supreme court under (b) of this section.

(f) A municipality shall adopt a citation form which complies with the requirements of this section and is at least equivalent to that adopted by the commissioner under § 41 of this chapter. (§ 6 ch 178 SLA 1978)

Chapter 10. Vehicle Registration and Title.

Article
1. Registration (§§ 28.10.011 — 28.10.181)
2. Title (§§ 28.10.201 — 28.10.261)
3. Transfer of Vehicle (§§ 28.10.271 — 28.10.361)
4. Filing Documents Evidencing Liens or Encumbrances (§§ 28.10.371 — 28.10.401)
5. Fees and Charges (§§ 28.10.411 — 28.10.441)
6. Registration and Title Violations (§§ 28.10.451 — 28.10.491)
7. General Provisions (§§ 28.10.495 — 28.10.502)

Repeal of former chapter. — Section 7, ch. 178, SLA 1978, repealed former Chapter 10, entitled "Alaska Motor Vehicle Act." The former chapter consisted of §§ 28.10.010 — 28.10.660, and derived from §§ 1-12, ch. 124, SLA 1951; §§ 1-5, ch. 50, SLA 1953; §§ 1-3, ch. 59, SLA 1953; §§ 1, 2, ch. 73, SLA 1953; § 1, ch. 37, SLA 1955; § 1, ch. 8, SLA 1957; § 1, ch. 20, SLA 1957; §§ 1 — 3, ch. 95, SLA 1957; § 1, ch. 120, SLA 1957; § 1, ch. 176, SLA 1957; § 1, ch. 38, SLA 1959; ch. 59, SLA 1959; §§ 1, 2, ch. 73, SLA 1959; § 1, ch. 134, SLA 1959; § 1, ch. 138, SLA 1960; § 1, ch. 140, SLA 1960; § 1, ch. 22, SLA 1961; § 1, ch. 25, SLA 1961; § 1, ch. 60, SLA 1961; § 1, ch. 141, SLA 1961; § 1, ch. 8, SLA 1962; §§ 1, 2, ch. 94, SLA 1962; § 11, ch. 2, SLA 1964; §§ 1, 2, ch. 24, SLA 1964; §§ 30-33, ch. 43, SLA 1964; §§ 14, 15, ch. 70, SLA 1964; § 1, ch. 21, SLA 1965; §§ 1 — 3, ch. 59, SLA 1965; § 1, ch. 30, SLA 1966; § 1, ch. 141, SLA 1966; § 2, ch. 67, SLA 1967; § 1, ch. 81, SLA 1967; § 1, ch. 79, SLA 1968; § 1, ch. 97, SLA 1968; § 1, ch. 152, SLA 1968; §§ 1, 2, ch. 187, SLA 1968; §§ 1, 2, ch. 191, SLA 1968; §§ 1, 2, ch. 219, SLA 1968; §§ 1, 2, ch. 97, SLA 1969; § 58, ch. 69, SLA 1970; §§ 1 — 3, ch. 114, SLA 1970; § 1, ch. 116, SLA 1970; § 1, ch. 152, SLA 1970; § 1, ch. 192, SLA 1970; § 1, ch. 12, SLA 1972; §§ 1 — 3, ch. 10, SLA 1973; § 1, ch. 81, SLA 1973; §§ 1 — 5, ch. 156, SLA 1975; §§ 11 — 14, 29, ch. 214, SLA 1975; §§ 1, 2, ch. 4, SLA 1976; § 2, ch. 61, SLA 1976; § 1, ch. 126, SLA 1976; §§ 1 — 4, ch. 195, SLA 1976; §§ 15 — 17, 20, ch. 241, SLA 1976; §§ 1, 3 — 7, ch. 256, SLA 1976; §§ 1 — 6, ch. 20, SLA 1977; § 2, ch. 135, SLA 1977; §§ 7 — 10, 25, ch. 144, SLA 1977.

Legislative committee reports. — For report on ch. 67, SLA 1967 (HB 175), see 1967 House Journal, pp. 349-350. For report on ch. 81, SLA 1967 (CSSB 145), see 1967 House Journal, pp. 544-545. For report on ch. 97, SLA 1968 (CSHB 27), see 1968 House Journal, p. 583. For report on ch. 152, SLA 1968 (HCSCSSB 220 am), see 1968 House Journal, p. 632. For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7. For report on ch. 10, SLA 1973 (HB 85), see 1973 Senate Journal Supplement No. 6, p. 3. For report on ch. 81, SLA 1973 (CSHB 84 [Finance] am S), see 1973 House Journal, p. 547.

Article 1. Registration.

Section
11. Vehicles subject to registration
21. Application for registration
31. Temporary permits
41. Grounds for refusing registration
51. Department may suspend or revoke registration
61. Registration of vehicles with altered or missing identification number
71. Registration records and statistics; stolen vehicles
91. Lost or mutilated certificates of registration or registration plates
101. Expiration of registration
105. Staggered registration
107. Staggered registration implementation
111. Renewal of registration
121. Vehicles of nonresidents
131. Vehicles previously registered in other jurisdictions
161. Registration plates to be furnished by department
171. Display of registration plates
181. Registration of unique and special vehicles and vehicles used for special purposes

Sec. 28.10.011. Vehicles subject to registration. Every vehicle in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in §§ 31 and 181(j) of this chapter;

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C.A. Appr. 501 et seq.);

(7) driven or parked only on private property;

(8) the vehicle of a nonresident as provided under § 121 of this chapter;

(9) a commercial interstate vehicle under § 141 of this chapter; or

(10) transported under a special permit under § 151 of this chapter. (§ 7 ch 178 SLA 1978)

Am. Jur., ALR and C.J.S. references. — 5 Am. Jur., Automobiles, §§ 108, 136. Construction and application of exemption or exception from provisions of statute requiring registration, 91 ALR 422. 60 C.J.S., Motor Vehicles, §§ 60, 61.

Sec. 28.10.021. Application for registration. The owner of a vehicle subject to registration shall apply for registration under this chapter by properly completing the form prescribed by the commissioner under AS 28.05.041. Before the issuance of a certificate of registration by the department, the owner shall pay all registration fees and taxes required under this chapter and Alaska motor freight carrier and bus transportation fees required under AS 42, and comply with any other applicable statutes and regulations. (§ 7 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 779.
60 C.J.S., Motor Vehicles, §§ 101 to 104.

Sec. 28.10.031. Temporary permits. (a) When application, accompanied by the proper fee and tax, has been made for the registration of a vehicle, the vehicle may be driven pending the issuance of a certificate of registration by displaying a temporary permit issued by the department.

(b) A licensed vehicle dealer may issue to the purchaser of a vehicle

effective for a period not to exceed 30 days. The commissioner shall adopt regulations governing the issuance of permits under this section.

(c) No person may operate a vehicle under an expired permit issued under this section. (§ 7 ch 178 SLA 1978)

Sec. 28.10.041. Grounds for refusing registration. (a) The department may refuse to register a vehicle if

(1) the application contains a false or fraudulent statement;

(2) the applicant fails to furnish information required by the department;

(3) the applicant is not entitled to the issuance of a certificate of title or registration under this chapter;

(4) the vehicle is determined to be mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state;

(5) the department has reasonable grounds to believe that the vehicle was stolen or fraudulently acquired or that the granting of registration would be a fraud against the rightful owner or other person having a valid lien upon the vehicle;

(6) the registration of the vehicle has been suspended or revoked for any reason under the laws of this state;

(7) the required fees, taxes, motor freight carrier fees or bus transportation fees have not been paid;

(8) the vehicle or applicant fails to comply with this chapter or regulations authorized by this section.

(b) When the department refuses to register a vehicle, it shall immediately notify the applicant stating the reasons for the action and informing him of his right to a hearing under AS 28.05.131 — 28.05.141. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, § 111.

Sec. 28.10.051. Department may suspend or revoke registration. The department may suspend or revoke the registration of a vehicle, the certificate of registration or registration plates for a vehicle, or a special permit when

(1) the department is satisfied that the registration or certificate, plate or permit was fraudulently or erroneously issued;

(2) the department determines that a registered vehicle is mechanically unsafe to be driven or moved on a highway, vehicular way or area, or other public property in this state and the vehicle has been seized or impounded under AS 28.05.091;

(3) a registered vehicle has been scrapped, dismantled or destroyed beyond repair;

(5) a registration plate, permit, or certificate is knowingly displayed upon a vehicle other than the vehicle for which issued;

(6) the department determines that the owner of a vehicle has committed an offense under this chapter involving the registration or the certificate, plate, or permit to be suspended or revoked;

(7) the vehicle has been reported to the department as stolen or unlawfully converted; or

(8) the department is otherwise required to do so under the laws of this state. (§ 7 ch 178 SLA 1978)

Sec. 28.10.061. Registration of vehicles with altered or missing identification number. When the vehicle identification number required to be registered under this chapter has been altered, removed or defaced, or is not on the vehicle, the owner shall, immediately upon discovery, apply to the department for replacement of the identification number and for a new registration. The department shall search all available sources to determine the identification number originally assigned and, if the number is determined, shall replace it. If efforts to determine the original identification number fail, the owner shall furnish information to show that he is entitled to ownership of the vehicle and have it inspected by the department. The department, when satisfied as to the ownership of the vehicle, shall assign an identification number to the vehicle and have the number placed upon the vehicle to which it is assigned. The vehicle shall then be registered under the replaced or assigned identification number. (§ 7 ch 178 SLA 1978)

Sec. 28.10.071. Registration records and statistics; stolen vehicles. (a) The department shall review each application for registration received and, when satisfied that it is correct, register the vehicle and keep a record of the registration in suitable books, index cards or electronic or photographic recording and storage media, or in any combination of them. The record is referred to as the "vehicle register" and the vehicles as "registered vehicles." The department may compile a record of the number and types of vehicles registered in this state and may make statistical data available to the public for a fee as prescribed in regulations adopted by the commissioner.

(b) Records under this section shall be maintained

(1) by a distinctive registration number assigned to the vehicle;

(2) by the vehicle identification number, including but not limited to a record of identification numbers replaced or assigned under § 61 of this chapter;

(3) by the name and residence and mailing address of the owner; and

(4) as otherwise required by the department.

(c) The department shall keep a record of the registrations of vehicles used in law enforcement work when secrecy is necessary. This record

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(2) After December 31, 1978, expiration and renewal shall be as specified in the staggered vehicle registration procedures under §§ 105 and 107 of this chapter. (§ 7 ch 178 SLA 1978)

C.J.S. reference. — 60 C.J.S., Motor Vehicles, §§ 126, 132.

Sec. 28.10.105. Staggered registration. (a) Effective January 1, 1979, every vehicle registration, registration card and registration plate expires and must be renewed in accordance with the registration renewal schedule set out in this section.

(b) Effective January 1, 1979, every new or used vehicle subject to registration but not currently registered must be registered in accordance with the registration renewal schedule set out in this section.

(c) Every vehicle registered before January 1, 1979 shall, no later than May 31, 1979, have its registration renewed by application for and payment of the registration fees prescribed in this chapter and, if applicable, the Alaska Transportation Commission fees as prescribed in AS 42.

(d) Vehicles initially assigned to the first through seventh registration periods must be registered and validated through the last day of their respective anniversary periods in 1980.

(e) Vehicles initially assigned to the eighth through tenth registration periods must be registered through the last day of their respective registration renewal periods in 1979, at which time the vehicles must be registered for a full 12-month period through the last day of their respective registration renewal periods in 1980.

(f) Every vehicle registered under this section and § 107 of this chapter may, at the option of the owner, have its registration period extended in monthly increments by payment of the proportionate prorated applicable fees to allow annual registration to occur in any month of the owner's choice.

(g) The department shall issue to the registered owner, upon receipt of the proper application and fees, registration plates, tabs and registration form displaying the month and year in which the registration expires.

(h) The department shall prorate fees in monthly increments to allow for registration of vehicles in more or less than one-year periods when required by any provision of this section.

(i) The department may adopt regulations implementing staggered vehicle registration only as authorized under the provisions of this section and in accordance with the Administrative Procedure Act (AS 44.62), specifically subject to the legislative annulment procedures as provided in AS 44.62.320 and including notice as provided in AS 44.62.190 and AS 44.62.200 and an opportunity for public comment as provided in AS 44.62.210. (§ 7 ch 178 SLA 1978)

of the license plate or contained on a suitable sticker or tab device issued by the department.

(c) The department may not adopt a new or altered passenger vehicle registration plate unless it substantially embodies the specifications of this section. (§ 7 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 111; 5A Am. Jur., Automobiles and Highway Traffic, § 85. 60 C.J.S., Motor Vehicles, §§ 105 to 108.

Sec. 28.10.171. Display of registration plates. (a) When two registration plates are issued for a vehicle, they shall be attached to the vehicle for which issued, one in front and the other in the rear. When one registration plate is issued, it shall be attached to the rear of the vehicle for which issued.

(b) Every registration plate issued under this chapter shall be securely fastened to the vehicle to which it is assigned, with the upper edge of the plate horizontal, at a height of not less than 12 inches from the ground measuring from the bottom of the plate, and maintained in a location and condition so as to be clearly legible. However, when considered necessary to insure legibility, the commissioner may provide by regulation for another method of installation. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, § 111.

Sec. 28.10.181. Registration of unique and special vehicles and vehicles used for special purposes. (a) The department shall register unique and special vehicles and vehicles used for special purposes and issue registration plates as provided in this section. Notwithstanding other provisions of this chapter, registration plates issued under this section remain with the person or organization to whom they are issued when vehicle ownership is transferred or title or interest in the vehicle is assigned, except for plates issued under (b), (h) and (i) of this section. Registration plates issued under this section may not be used on, or transferred to, a vehicle other than the vehicle for which the plates are issued without the approval of the department and payment of any required fees and taxes prescribed in §§ 421(d), 431 and 441 of this chapter; however, if the plates issued under (c), (f) and (j) of this section are transferred to a vehicle for which the registration fee is more than the fee for the vehicle from which the plates are transferred, the owner shall pay the difference between the two fees. Registration plates issued under this section to which a person is no longer entitled or the transfer of the plates to another vehicle which the department does not approve shall be returned immediately to the department by the person or organization to whom the plates were originally issued.

(b) Historic vehicles. The owner of an historic vehicle may ma application for special registration under this subsection. T department, when satisfied that the vehicle meets the requirements f historic vehicle registration under regulations adopted by t commissioner, shall register the vehicle and issue two permane registration plates of distinctive design and color bearing no date. The plates remain with the vehicle as long as it is registered under th subsection. Vehicles qualifying for registration under this subsecti shall be issued registration plates numbered in a separate numeric series beginning with "Historic Vehicle No. 1."

(c) Special request plates. Upon application by the owner of passenger vehicle, noncommercial van or pick-up truck, or motor hom the department may design and issue registration plates containing series of not more than six letters or numbers or combinatio of lette and numbers as requested by the owner. The department may, in i discretion, disapprove the issuance of registration plates under th subsection when the requested symbols are a duplication of an existi registration or when the symbols are considered unacceptable by t department.

(d) Vehicles owned by disabled veterans and handicapped persons. person who presents to the department written proof that he is at lea 70 per cent disabled or medically handicapped and should be give special consideration by the public with respect to the parking standing of his vehicle in designated spaces, may register one passeng vehicle without charge. The proof required under this subsection m consist of evidence that the person receives at least 70 per cent disabili compensation from a government agency at the time of registration an affidavit signed by a physician licensed to practice medicine in th state. Upon the request of the applicant the department shall issue specially designed registration plate which displays

(1) recognition of the disabled veteran if the applicant's disabili originated from his service with the armed forces of the United State or

(2) the standard handicap symbol (the wheelchair logo).

(e) Vehicles owned by the state, municipalities, and charitab organizations of the state. Every certificate of registration a registration plate issued to the state, a municipality or charitab organization of the state is in effect until the vehicle for which t registration certificate and plate were issued is no longer owned a operated by the state, the municipality or the charitable organization the state or until the department, in its discretion, declares its expiratio The state, municipality or charitable organization of the state sha maintain a current listing of all vehicles registered to it in the order the registration number assigned to each vehicle, and shall provide

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trailer, from the retail facility to a trailer space. If the dealer sells or transfers the vehicle, the dealer plates may be used on the vehicle by the new owner or transferee for a period of not more than five days after the sale or transfer. The department may seize the dealer plates if it has reason to believe that the plates are being used to defeat the purposes of, or are in violation of, this chapter. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 108, 136.

Article 2. Title.

Section	
201. Title required; exceptions	241. Delivery and effect of certificate of title
211. Application for title	251. Lost, stolen or mutilated certificate of title
221. Refusal, suspension, and revocation of title	261. Evidence
231. Certificate of title contents	

Sec. 28.10.201. Title required; exceptions. (a) Except as otherwise provided in (b) of this section or in §§ 131 — 141 of this chapter, every owner of a vehicle subject to registration in this state shall apply for a certificate of title under this chapter.

(b) The owner of a vehicle described in § 11 of this chapter as being exempt from registration and the owner of a snowmobile or off-highway vehicle may not apply for, nor may the department issue, a certificate of title for such a vehicle. However, the department may issue a certificate of title to the owner of a vehicle exempt from registration under § 11(6) of this chapter, upon application by that owner.

(c) The certificate of title issued may, when there is more than one owner, state the name of each owner in the conjunctive or in the disjunctive in order to indicate that the owners own the vehicle together or in the alternative.

(d) Except for vehicles registered under §§ 131(b) and 141 of this chapter, the department may not register a vehicle unless the applicant for registration at the same time applies for and obtains a certificate of title under this chapter, or presents satisfactory evidence that a certificate of title was previously issued to him. The department may not accept the application for the original certificate of registration or title to a vehicle unless the vehicle is in the state at the time of application. However, the department may accept an application for registration and certificate of title for a vehicle which is not in the state when the application is made by a registered and bonded dealer or by a resident of the state when the application is accompanied by a manufacturer's statement of origin, or in the case of a used vehicle, when the application is accompanied by a certificate of title issued in another jurisdiction and a certificate of inspection by a peace officer of that jurisdiction stating that the vehicle has been determined to be the

title fee required under § 441 of this chapter, the department shall issue a new certificate of title. (§ 7 ch 178 SLA 1978)

Article 5. Fees and Charges.

Section	Section
411. Registration fees levied	431. Annual motor vehicle registration tax
421. Registration fee rates	441. Schedule of other fees and charges

Sec. 28.10.411. Registration fees levied. (a) For every year during any part of which a vehicle is subject to registration under this chapter, a registration fee shall be paid to the department at the time of original registration and at each annual renewal of registration after that time.

(b) Motor carrier and bus transportation fees paid on vehicles subject to the Alaska Motor Freight Carrier Act (2.10) and the Alaska Bus Act (AS 42.15) shall be paid to the depa ent at the same time the registration fee is paid.

(c) A resident 65 years of age or older is entitled to an exemption from tax under this section for one motor vehicle subject to registration. No exemption may be granted except upon written application for the exemption on a form prescribed by the department.

(d) The Department of Community and Regional Affairs shall pay to the borough and to the city in which a person who is granted an exemption under (c) of this section resides an amount equal to the tax levied under § 431(b) of this chapter regardless of whether the borough or city is eligible for the tax levied under that section.

(e) Notwithstanding any other provision of law, the fees paid for registering a vehicle under § 421(b)(1), (2), (5), (6) or (d) of this chapter shall include all fees required for entry into and use of a state park or campground. (§ 7 ch 178 SLA 1978)

Sec. 28.10.421. Registration fee rates. (a) Unless otherwise provided by law, the fees prescribed in this section shall be paid to the department at the times provided under §§ 101—111 of this chapter.

(b) The annual registration fees under this subsection are imposed within the following classifications for:

(1) a passenger vehicle or motor home not used or maintained for the transportation of persons or property for hire or for other commercial use $30;

(2) a pick-up truck or a van not exceeding 6,000 pounds unladen weight and not used or maintained for the transportation of persons or property for hire or for other commercial use $35;

(3) a taxicab $65;

(4) a motor bus with a seating capacity for 20 or more persons and used exclusively for commercial purposes in the transporting of visitors

(6) a two- or four-wheeled trailer not used or maintained for the transportation of persons or property for hire or for other commercial use, including, but not limited to, a boat trailer, baggage trailer, box trailer, utility trailer or house trailer ..... $ 5.

(c) The annual registration fees under this subsection are imposed and are based upon the actual unladen weight as established by the manufacturer's advertised weight or upon the actual weight which the owner shall furnish, subject to the approval of the commissioner or his representative, for a vehicle, including a motor vehicle pulling a trailer or semi-trailer, used or maintained for the transportation of passengers for hire, excepting taxicabs and buses under (b) of this section, or for the transportation of property for hire or for other commercial use, including a commercial vehicle such as a trailer, semi-trailer, truck, wrecker, tow car, hearse, ambulance, and tractor, as follows:

(1) up to and including 5,000 pounds $45;

(2) more than 5,000 pounds to and including 12,000 pounds .. $80;

(3) more than 12,000 pounds to and including 18,000 pounds . . $150;

(4) more than 18,000 pounds ..... $215.

(d) The special registration fees under this subsection are imposed annually, unless otherwise specified, for:

(1) an historic vehicle (one time only upon initial registration under § 181 of this chapter) $10;

(2) special request plates $20;

plus the fee required for that vehicle under (b)(1) or (2) of this section;

(3) a vehicle owned by a disabled veteran or other handicapped person, and registered under § 181 of this chapter or a resident 65 years of age or older who complies with § 411(c) of this chapter ..... none;

(4) a vehicle owned by the state ..... none;

(5) a vehicle owned by an elected state official ..... the fee required for that vehicle under (b) of this section;

(6) a vehicle owned by a consular officer, unless waived under § 181 of this chapter $30;

(7) a vehicle owned by a rancher, farmer, or dairyman and registered under § 181 of this chapter $30;

(8) a snowmobile or off-highway vehicle ..... $ 5;

(9) an amateur mobile radio station vehicle,

(A) with a transceiver capable of less than 5-band operation ..... the fee required for that vehicle under (b) or (c) of this section;

(B) in recognition of his service to the public: a mobile amateur radio station owned by an amateur with general class or higher license, provided the station must be satisfactorily proved capable of operating on at least five bands between 160 through 10 meters, must have an antenna, and must have a power supply and wiring as a permanent part of the vehicle; the transmitting unit may be removed from the car for

moved, on a highway or vehicular way or area, a vehicle required to be registered under this chapter unless valid registration plates, decals or permits for the current registration period are attached to and displayed on the vehicle in the manner required by this chapter, and unless a valid certificate of registration for the current registration period is carried, as required by this chapter, in the vehicle and is available for inspection by a peace officer or an authorized representative of the department. (§ 7 ch 178 SLA 1978)

Sec. 28.10.471. Driving vehicle when registration suspended or revoked or permit expired. No person may drive or move, nor may an owner knowingly permit to be driven or moved, on a highway or vehicular way or area, a vehicle for which the registration or permit has been suspended or revoked or has expired. (§ 7 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., automobiles, §§ 138, 777.

Sec. 28.10.481. Improper use of evidence of registration or certificate of title. No person may lend to another, or knowingly permit the use by another of, a certificate of registration or title, registration plate, decal, special plate, or permit issued under this chapter if the person to whom it is loaned or whose use is permitted is not entitled to its use, nor may a person display in or upon a vehicle a certificate of registration, registration plate, decal, special plate, or permit not issued for that vehicle or not otherwise lawfully used on that vehicle. (§ 7 ch 178 SLA 1978)

Sec. 28.10.491. Felonies relating to title, registration, identification number, and removal and representation of vehicles. (a) Upon conviction, a person is guilty of a felony who

(1) alters, forges or counterfeits a certificate of title or registration, or a registration plate, decal, tab or sticker of this or another jurisdiction;

(2) alters or forges an assignment of a certificate of title or an assignment or release of a security interest on a certificate of title of this or another jurisdiction or on a form the department prescribes;

(3) has possession of or uses a certificate of title or registration, registration plate, decal, tab or sticker of this or another jurisdiction knowing it to have been altered, forged or counterfeited;

(4) wilfully removes or falsifies a vehicle identification number;

(5) wilfully conceals or misrepresents the identity of a vehicle or vehicle equipment;

(6) buys, receives, possesses, sells or disposes of a vehicle or vehicle equipment, knowing that a vehicle identification number or equipment has been unlawfully removed or falsified;

(7) removes from the state a vehicle which is the subject of a security

(8) represents a motor vehicle or house trailer to be a new vehicle and who sells or procures the sale of that motor vehicle as a new vehicle without presenting a "manufacturer's statement of origin."

(b) A person convicted of an offense under this section is punishable by imprisonment for not less than one year nor more than five years, or by a fine of not less than $500 nor more than $5,000, or by both. (§ 7 ch 178 SLA 1978)

Article 7. General Provisions.

Section
495. Parking permit for vehicle transporting disabled person
501. Definitions
502. Towing and storage lien.

Sec. 28.10.495. Parking permit for vehicle transporting disabled person. (a) When the owner or person in lawful possession of a vehicle presents to the department written proof, in the form of an affidavit, that he is primarily responsible for the transportation of a disabled or medically handicapped person, the department shall issue to the applicant, without charge, a special permit bearing the applicant's name, address, driver's license number, and the registration plate numbers of the vehicles to be used for that transportation. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle which is not registered in the name of the disabled or medically handicapped person, but which is used for the primary transportation of that person.

(b) No person is entitled to use the special permit provided for in (a) of this section except

(1) the driver named on the permit;

(2) when in a vehicle having its registration number on the permit; and

(3) only when providing transportation for the disabled or handicapped person with respect to whom the permit was issued.

(c) Proof of disablement or medical handicap, for the purpose of this section, shall be provided as specified in § 181(d) of this chapter. (§ 24 ch 178 SLA 1978)

Sec. 28.10.501. Definitions. Unless otherwise specifically defined or unless the context otherwise requires, in this chapter and in regulations adopted under this chapter, "dealer" means a person engaged in the business of buying, selling or exchanging vehicles of a type required to be registered under this chapter and who maintains a place of business or by word of mouth, advertising or in any other manner holds himself out to be in the business of buying, selling or exchanging vehicles. (§ 7 ch 178 SLA 1978)

Sec. 28.10.502. Towing and storage lien. (a) A person engaged in the business of towing motor vehicles, who tows, transports or stores a motor vehicle, has a possessory lien on the vehicle. This lien attaches when the person acts under a contract with the owner or at the direction of a public officer acting lawfully or a person entitled to possession of the property upon which the motor vehicle is parked without consent. The lien remains in effect while the motor vehicle is in the possession of the person, and the vehicle may be sold, as provided in (c) of this section, to pay the charges for towing, transportation or storage.

(b) A lien under this section is limited to towing and storage charges assessed according to the tariff filed by the carrier with the Alaska Transportation Commission; however, in the absence of a filed tariff, the towing or storage charge shall be the same as the lowest similar charge in the other filed tariffs covering the same service or route. Storage charges cease to be part of the lien after 60 days unless the registered owner or primary lienholder, if any, has been given actual notice of the possessory lien within that time or unless a certified letter has been mailed within that time to the owner and primary lienholder, if any, at their addresses of record with the Department of Public Safety or the corresponding office in another jurisdiction in which the title to the motor vehicle and the lien on it are recorded.

(c) If the motor vehicle remains unclaimed for a period of 30 days in the possession of the person who performed the towing, transportation or storage, it shall be sold on giving 20 days notice of the sale. The notice shall be delivered to the proper officer and personally served on the registered owner and all lienholders, if any, of the motor vehicle in the same manner as provided by law for service of summons. If either of these persons cannot be located and served personally, notice of the sale shall be forwarded to him at his last known address by certified mail, return receipt requested. This notice shall contain a description of the motor vehicle, including its registration plate number and vehicle identification number, together with the time and place of sale, a statement of the amount due, and the name and address of the person to whom the charges are due.

(d) The money realized from a sale made under this section shall be applied first to the payment of costs and expenses of the sale and secondly to the lawful charges of the person having a lien on the motor vehicle under this section. Remaining proceeds from the sale shall be retained by the Department of Public Safety to be distributed to the registered and legal owner or lienholder entitled to the remaining proceeds. A purchaser in good faith of a titled motor vehicle sold under this section takes the motor vehicle free of any rights of prior lien. (§ 21 ch 178 SLA 1978)

Chapter 11. Abandoned Vehicles.

50. Vesting of title
60. Redemption
70. Disposal of abandoned vehicles
80. Disposal facilities
90. Towing and storage lien on abandoned vehicle
100. Municipal abatement procedure
110. Abandoned motor vehicle fund

Sec. 28.11.010. Abandonment unlawful. (a) No person may abandon a vehicle upon a highway or vehicular way or area.

(b) No person may abandon a vehicle upon public property or upon private property without the consent of the owner or person in lawful possession or control of the property.

(c) A person who abandons a vehicle in a place specified in (a) or (b) of this section is considered responsible for the abandonment of the vehicle and is liable for the cost of its removal and disposition.

(d) Except as otherwise provided in (b) of this section, the lawful owner of a vehicle, as shown by the records of the department, whether or not he has complied with the provisions of AS 28.10.271, is considered responsible for the abandonment of the vehicle and is liable for the cost of removal and disposition of the abandoned vehicle unless

(1) the vehicle was abandoned by a person driving the vehicle without the permission of the owner; or

(2) the identity of the person abandoning the vehicle is established and the abandonment was without the consent of the owner. (§ 1 ch 61 SLA 1976; am §§ 8, 9, 22 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment, in subsection (c), substituted "who abandons a vehicle in a place" for "abandoning a vehicle as" and "the vehicle" for "a vehicle," inserted "its" preceding "removal," and deleted "of the abandoned vehicle" from the end of the subsection. In the introductory paragraph of subsection (d), the amendment added "Except as otherwise provided in (b) of this section" to the beginning, substituted "a vehicle" for "the vehicle" near the beginning, "AS 28.10.271" for "AS 28.10.350" near the middle, and "the vehicle" for "a vehicle" near the end. The amendment also, in subsection (d), substituted "driving" for "operating" and "without the permission of the owner" for "without permission" in paragraph (1), and deleted "lawful" following "consent of the" in paragraph (2).

Sec. 28.11.020. Presumption of abandonment. A vehicle which has been left unattended, standing, parked upon or within 10 feet of the traveled portion of a highway, in excess of 48 hours, or a vehicle left standing or parked on private property in excess of 24 hours or upon other public property for more than 30 days, without the consent of the owner or person in charge of the property, notwithstanding other statutory provisions, may be removed under § 30 of this chapter and treated as an abandoned vehicle, unless the vehicle is reclaimed and removed before action regarding removal is taken under § 30 of this chapter. The department for good cause may make provisions for parking of vehicles on state property other than specified in this section and under the provisions of AS 44.62. (§ 1 ch 61 SLA 1976; am § 10 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.030. Removal of abandoned vehicles. (a) A peace officer or an employee authorized by the state or a municipality may remove or have removed to a place for storage a vehicle abandoned on a highway, on a vehicular way or area, or on private property.

(b) Removal of an abandoned vehicle from private property shall be upon the written request of the owner or person in lawful possession or control of the property, and on a form prescribed by the department.

(c) A written report of the removal shall be made by the peace officer or employee who removes or has removed a vehicle under this section, and the report shall be sent immediately to the department and a copy of the report shall be given to the person who stores the property. The report shall describe the vehicle, the date, time, and place of removal, the grounds for removal, and the place of impoundment of the vehicle. (§ 1 ch 61 SLA 1976; am § 11 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "peace officer" for "police officer" and "have removed" for "cause to be removed" in subsection (a), deleted "safe" following "place for" and "public street or" preceding "highway" in subsection (a), substituted "upon the written request" for "on the written request" and "on a form" for "upon a form" in subsection (b), and, in the first sentence of subsection (c), substituted "peace officer" for "police officer" and "has removed" for "causes the removal of" and added the language beginning "and a copy of the report" to the end of the sentence.

Sec. 28.11.040. Notice to owners and lienholders. The person or company who stores an abandoned vehicle at the direction of a peace officer or an employee under § 30 of this chapter shall within 30 days give notice, in the manner prescribed for the giving of notice by the department under AS 28.05.121, to the vehicle owner of record and to lienholders of record, stating the grounds for removal and the location of the place of impoundment of the vehicle. If the vehicle is not registered in the state or the name and address of the registered or legal owner or lienholder cannot be ascertained, notice shall be given by publication in the manner prescribed in the rules of the court for service of process by publication. (§ 1 ch 61 SLA 1976; am § 12 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.050. Vesting of title. Title to an impounded vehicle not reclaimed by the registered owner, a lienholder, or other person entitled to possession of the vehicle within 30 days from the notice given under § 40 of this chapter vests with the state or, if a municipal ordinance is adopted under § 100 of this chapter, with the municipality, as

Effect of amendment. — The 1978 amendment substituted "a lienholder" for "the lienholder," "given under" for "provided by," "municipal ordinance" for "local ordinance," and "municipality" for "local governing body" in the first sentence and added the second sentence.

Sec. 28.11.060. Redemption. A person who presents satisfactory proof of ownership or right to possession may redeem a vehicle removed under this chapter at any time before an auction under § 70(a) of this chapter by paying the charges of towing, storage, notice, other cost of impoundment, and any applicable penalty imposed by law. (§ 1 ch 61 SLA 1976; am § 14 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "an auction" for "auction or relinquishment" and "any applicable penalty" for "penalties."

Sec. 28.11.070. Disposal of abandoned vehicles. (a) Upon satisfaction of the notice and reporting requirements prescribed in this chapter, a vehicle may be disposed of by public auction 20 days after notice of the auction is published in a newspaper of general circulation in the area or municipality in which the vehicle was found and presumed abandoned. The notice of auction shall describe the vehicle and specify the place, date, and time at which it will be sold. A copy of the notice of auction shall be conveyed to the department.

(b) A vehicle disposed of under this section must be registered and titled under ch. 10 of this title, and may not be subsequently sold without a certificate of title issued by the department.

(c) Notwithstanding the provisions of this section, a person who disposes of an abandoned vehicle under this section may initiate a civil action against a person named in § 10 of this chapter, if liable, for costs exceeding receipts for the disposal of the vehicle. (§ 1 ch 61 SLA 1976; am § 15 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.080. Disposal facilities. (a) The department may negotiate with an appropriate state or municipal agency in an effort to designate and acquire land for the temporary storage of vehicles before sale under § 70 of this chapter, or for the final disposal of unsold abandoned vehicles.

(b) A municipality which adopts an ordinance under § 100 of this chapter shall designate appropriate areas within its jurisdiction for the disposal of abandoned vehicles. (§ 1 ch 61 SLA 1976; am § 16 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment, in subsection (a), combined the former first and second sentences by sentence and "These areas may be used for" at the beginning of the former second sentence, substituted "may negotiate with

agencies," "temporary storage" for "temporary holding," and "under § 70" for "as prescribed in § 70," and deleted "centrally located" following "designate and acquire."

Sec. 28.11.090. Towing and storage lien on abandoned vehicle. A person authorized by contract or other official order to remove an abandoned vehicle has a lien upon a vehicle towed, moved, or stored by him and in his possession in accordance with AS 28.10.502. (§ 1 ch 61 SLA 1976; am § 17 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "AS 28.10.502" for "AS 28.10.515."

Sec. 28.11.100. Municipal abatement procedure. A municipality may adopt an ordinance establishing procedures for the abatement and removal from private or public property, as a public nuisance or a health or safety hazard, a wrecked, dismantled, or inoperative vehicle or a vehicle otherwise presumed to be abandoned. An ordinance adopted under this section shall contain provisions for (1) notice to owners and lienholders of record and persons known to be lawfully entitled to possession of the vehicles, of their right to a hearing which shall be conducted by the municipality in the manner provided for the department under AS 28.05.131 — 28.05.141; (2) notice to owners and lienholders as provided in § 40 of this chapter; and (3) disposal of abandoned vehicles as provided in § 70 of this chapter. (§ 1 ch 61 SLA 1976; am § 18 ch 178 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote this section.

Sec. 28.11.110. Abandoned motor vehicle fund. (a) There is created in the department an abandoned motor vehicle fund, to be composed of appropriations by the legislature and proceeds from the sale of abandoned motor vehicles.

(b) The proceeds from the sale of an abandoned motor vehicle under this chapter, after deducting the cost of impounding, advertising, and selling the vehicle, shall be deposited in the fund set out in (a) of this section.

(c) Money in the fund shall be disbursed to the department and to each of the municipalities bound by the provisions of this chapter upon presentation of a voucher for payment of services rendered in compliance with this chapter. (§ 1 ch 61 SLA 1976)

Chapter 15. Drivers' Licenses.

Article

1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.011 — 28.15.151)

Repeal of former chapter. — Section 19, ch. 178, SLA 1978, repealed former Chapter 15, which derived from § 1, ch. 84, SLA 1949; § 8, ch. 47, SLA 1955; § 1, ch. 139, SLA 1959; §§ 1—23, 25—35, ch. 173, SLA 1959; § 1, ch. 4, SLA 1961; §§ 1, 2, ch. 19, SLA 1961; §§ 1 — 12, 13 ch. 17, SLA 1964; § 1, ch. 34, SLA 1965; § 3, ch. 24, SLA 1966; § 8, ch. 157, SLA 1966; §§ 1, 2, ch. 56, SLA 1968; § 1, ch. 59, SLA 1972; § 1, ch. 115, SLA 1972; § 41, ch. 53, SLA 1973; § 1, ch. 82, SLA 1973; §§ 1—3, 5, ch. 74, SLA 1974; §§ 1—8, ch. 121, SLA 1974; § 35, ch. 127, SLA 1974; § 30, ch. 214, SLA 1975; § 1, ch. 3, SLA 1976; § 20, ch. 241, SLA 1976; §§ 1, 2, ch. 38, SLA 1977; § 2, ch. 135, SLA 1977; § 25, ch. 144, SLA 1977; § 1, ch. 69, SLA 1978. The former chapter consisted of five articles, as follows: 1. Issuance, Expiration and Renewal of Licenses (§§ 28.15.010 — 28.15.160); 2. Cancellation, Suspension or Revocation of Licenses (§§ 28.15.170 — 28.15.288); 3. Violation of Licensing Provisions (§§ 28.15.290 — 28.15.330); 4. Fees (§§ 28.15.340 — 28.15.350); 5. General Provisions (§ 28.15.360).

Legislative committee reports. — For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885. For report on ch. 82, SLA 1973 (FCCS CSSB 5 am FCC), see 1973 Senate Journal Supplement No. 10, p. 1 and No. 16, p. 2. For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 1. Issuance, Expiration and Renewal of Licenses.

Section
11. Drivers must be licensed
21. Persons exempt from driver licensing
31. Persons not to be licensed
41. Classification of drivers' licenses
51. Instruction permit, temporary driver's license and special driver's permit
61. Application for driver's license or instruction permit; notice of anatomical gift procedure
71. Application of minors
81. Examination of applicants
91. Department may require re-examination
101. Expiration and renewal of driver's license; re-examination
111. Licenses issued to drivers; anatomical gift document
121. Restricted driver's license
131. License to be carried and exhibited on demand
141. Duplicate driver's license
151. Records to be kept by the department

Sec. 28.15.011. Drivers must be licensed. (a) No person shall be denied the privilege to drive a motor vehicle upon a highway in this state, except as prescribed by law.

(b) Every person exercising his privilege to drive, or exercising any degree of physical control of a motor vehicle upon a highway, vehicular way or area, or other public property in this state, is required to have in his possession a valid Alaska driver's license issued under the provisions of this chapter for the type or class of vehicle driven, unless expressly exempted by law from this requirement.

(c) A person licensed under the provisions of this chapter may exercise in this state the privilege to drive a motor vehicle and is subject to the restrictions prescribed by this chapter. No municipality may require a person to obtain any other driver's license to drive or operate a motor vehicle in this state. (§ 19 ch 178 SLA 1978)

Am. Jur., ALR and C.J.S. references. — 5 Am. Jur., Automobiles, § 151; 6A Am. Jur., Automobiles and Highway Traffic, person, 16 ALR 117; 35 ALR 68; 54 ALR 381; 87 ALR 1473; 163 ALR 1375.

Defense of contributory negligence as

ALR 1153; 54 ALR 374; 58 ALR 532; 61 ALR 1190; 78 ALR 1028; 87 ALR 1469; 111 ALR 1258; 163 ALR 1375.

Validity, construction and applicability of statute or ordinance relating to grant of license or permit to operate automobile, 71 ALR 616; 108 ALR 1162; 125 ALR 1459.

Lack of automobile registration for operator's license as evidence of negligence, 73 ALR 164.

60 C.J.S., Motor Vehicles, §§ 146 to 164.

Sec. 28.15.021. Persons exempt from driver licensing. The following persons are exempt from driver licensing under this chapter:

(1) an employee of the United States government while operating a motor vehicle owned by or leased to the United States government and being operated on official business, unless the employee is required by the United States government or an agency of that government to have a state driver's license;

(2) a nonresident who is at least 16 years of age and who has a valid driver's license issued by another jurisdiction; however, an Alaska driver's license must be obtained by the end of a 90-day period after entry into the state;

(3) a member of the armed forces of the United States who has a valid driver's license issued by another jurisdiction and who maintains his permanent residence in that jurisdiction;

(4) a person when driving an implement of husbandry, as defined by regulation, which is only temporarily driven or moved on a highway. (§ 19 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 153.
60 C.J.S., Motor Vehicles, § 150.

Sec. 28.15.031. Persons not to be licensed. (a) The department shall not issue a driver's license to a person who is under the age of 16 years, except that the department may issue a permit under § 51 of this chapter or a restricted license under § 121 of this chapter.

(b) The department shall not issue an original or duplicate driver's license to, nor renew or reinstate the driver's license of, a person

(1) whose license is suspended or revoked, except as otherwise provided in this chapter;

(2) who fails to appear in court for the adjudication of a certain vehicle, driver or traffic offense when his appearance is required by statute, regulation or court rule;

(3) who is an habitual user of alcohol or another drug to such a degree that he is incapable of safely driving a motor vehicle;

(4) who has previously been adjudged to be afflicted with, or suffering from, a mental disability or a disease and who has not, at the time of application for the license, been restored to competency by the methods provided by law;

determined that because of his physical or mental disability the person is not able to drive a motor vehicle safely;

(6) who is unable to understand official traffic control devices as displayed in this state or who does not have a fair knowledge of traffic laws and regulations, as demonstrated by an examination;

(7) who has knowingly made a false statement in his application for a license or has committed fraud in connection with his application for, or in obtaining or attempting to obtain, a license, or who has not applied under oath on the form provided for the purpose of obtaining or attempting to obtain a license or permit; or

(8) who is required under ch. 20 of this title to furnish proof of financial responsibility and who has not done so. (§ 19 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, § 151.

Sec. 28.15.041. Classification of drivers' licenses. (a) The commissioner shall provide by regulation for the classification of drivers' licenses. The regulations shall specify license classifications which are reasonably necessary for the safe operation of the various types, sizes and combinations of motor vehicles. The regulations shall also establish medical standards, standards of driving conduct and proficiency, and other standards governing the issuance, renewal, or denial of these licenses. The department may examine each applicant to determine his qualifications according to the class of license applied for, and upon issuing a driver's license the department shall indicate on the license the classification for which an applicant for a license has qualified by examination. The regulations and any subsequent modifications under this section become effective only if approved by a concurrent resolution adopted by a majority vote of each house of the legislature.

(b) No person may drive a school bus transporting school children, or a bus transporting school-age children or another motor vehicle when in use for the transportation of persons for compensation until he has applied for and has been issued a license for that purpose under (a) of this section. The department may not issue a license under this subsection unless the applicant is at least 19 years of age, has had at least one year of driving experience, and the department is satisfied as to the applicant's good character, competence and fitness to be licensed; nor may the department issue the license until proper application has been made and all required driving, written, and physical examinations have been successfully completed. A license issued under this subsection expires on September 1 of the year following issuance. Application for renewal may be made by submitting to the department the results of a current physical examination and paying the required fee. (§ 19 ch 178

Sec. 28.15.051. Instruction permit, temporary driver's license and special driver's permit. (a) Except as provided in (b) of this section, a person who is at least 14 years of age may apply to the department for an instruction permit. The department may, after the applicant has successfully passed all parts of the examination under § 81 of this chapter other than the driving test, issue to the applicant an instruction permit. The permit allows a person, while having the permit in his immediate possession, to drive a specified type or class of motor vehicle on a highway or vehicular way or area for a period not to exceed two years. The permittee must be accompanied by a person at least 19 years of age who has been licensed at least one year to drive the type or class of vehicle being used, who is capable of exercising control over the vehicle and who occupies a seat beside the driver, or who accompanies and immediately supervises the driver when he drives a motorcycle. An instruction permit may be renewed.

(b) The department, upon receiving proper application, may issue a restricted instruction permit effective for a school year or for a more restricted period to an applicant who is at least 14 years of age and who is enrolled in a driver education program which includes practice driving and is approved by the department. The restricted instruction permit allows the permittee, when he has the permit in his immediate possession, to drive a specified type or class of motor vehicle; however, an approved instructor must occupy a seat beside the permittee or, if the permittee is driving a motorcycle, he must be accompanied by and under the immediate supervision of an approved instructor.

(c) The department may issue a temporary driver's license to an applicant for a driver's license permitting him to drive a specified type or class of motor vehicle while the department is completing its investigation and determination of all facts relative to the applicant's eligibility to receive a driver's license. The temporary license must be in the applicant's immediate possession while he is driving a motor vehicle. A temporary driver's license is invalid when the applicant's license has been issued or has been refused for good cause.

(d) The department may issue a special driver's permit to a person who is at least 14 years of age with the consent of his parents or guardians for the purpose of driving a motor-driven cycle. This permit may be issued upon application and successful completion of all prescribed tests and fees, and is valid for the same period of time as a driver's license. The permit is not valid in a municipality which by ordinance prohibits the driving of a motor-driven cycle by a person under the age of 16 years; a borough may adopt the ordinance on a nonareawide basis only, unless the power to adopt it on an areawide basis is acquired under AS 29.33.250 — 29.33.290.

(e) Notwithstanding other provisions of this chapter, the department [illegible] license to a person who is under the age of

Sec. 28.15.061. Application for driver's license or instruction permit; notice of anatomical gift procedure. (a) Application for an instruction permit or for a driver's license must be made on a form furnished by the department and must be accompanied by the fee required under § 271 of this chapter.

(b) An application under (a) of this section shall

(1) contain the applicant's full name, date and place of birth, sex, and mailing and residence addresses;

(2) state whether the applicant has been previously licensed as a driver and, if so, when and by what jurisdiction;

(3) state whether any previous driver's license issued to the applicant has ever been suspended or revoked or whether an application for a driver's license has ever been refused and, if so, the date of and reason for the suspension, revocation, or refusal; and

(4) contain other information which the department may reasonably require to determine the applicant's identity, competency, and eligibility.

(c) When an application is received from a person previously licensed in another jurisdiction, the department may request a copy of the applicant's driving record from the other jurisdiction. Upon receipt of that record by the department, it becomes a part of the driver's record in this state with the same effect as if the record originated in this state.

(d) The department shall, by placement of posters and brochures in the office where the application is taken, make known to the applicant the procedure necessary to complete a document of gift under the Uniform Anatomical Gifts Act (AS 13.50). (§ 19 ch 178 SLA 1978)

Am. Jur. and C.J.S. references. — 5A Am. Jur., Automobiles and Highway Traffic, §§ 127 to 135.

60 C.J.S., Motor Vehicles, § 156.

Sec. 28.15.071. Application of minors. (a) The application of a person under the age of 18 years for an instruction permit or driver's license must be signed by the father, mother or guardian, or if there is no parent or guardian then by another responsible adult who is willing to assume the obligation imposed under this section upon a person signing the application. The application must be signed and verified before a person authorized to administer oaths, or be signed in the presence of an authorized representative of the department.

(b) Any negligence or wilful misconduct of a person under the age of 18 years when driving a motor vehicle in this state is imputed to the person who signed the application of the person for a permit or license, and that person is jointly and severally liable for damage caused by the negligence or wilful misconduct of the person under the age of 18 years, except as provided in (c) of this section.

(c) If a minor deposits, or there is deposited on his behalf, proof of financial responsibility for his driving of a motor vehicle, in the form and

the application of the minor signed as required under (a) of this section, and, while proof of financial responsibility is maintained, the parent, guardian or other responsible adult is not subject to the liability imposed under (b) of this section.

(d) A person who signs the application of a minor for a driver's license may file with the department a verified written request that the license of the minor be canceled. When the license is canceled, the person who signed the application is relieved from liability under (b) of this section. (§ 19 ch 178 SLA 1978)

Sec. 28.15.081. Examination of applicants. (a) The department shall examine every applicant for a driver's license. The examination shall include a test of the applicant's eyesight, his ability to read and understand official traffic control devices, his knowledge of safe driving practices and the traffic laws and regulations of this state, and may include a demonstration of ability to exercise ordinary and reasonable control in the driving of a motor vehicle of the type and general class of vehicles for which the applicant seeks a license. However, an applicant who has not been previously issued a driver's license by this or another jurisdiction must demonstrate his ability, and must present medical information which the department reasonably requires to determine his fitness to safely drive a motor vehicle of the type and general class of vehicles for which he seeks a license.

(b) The commissioner shall adopt regulations under the procedures established by AS 44.62 necessary to implement this section and the department may obtain the services of, and consult with, medical authorities whose specialities relate to driving abilities for the purpose of making the medical determinations necessary under this section or § 91 or 101 of this chapter. Regulations adopted under this section must be approved by a concurrent resolution adopted by majority vote of each house of the legislature before becoming effective. The requirements of the eyesight test under this section may also be satisfied by presenting the current certification of a licensed physician or optometrist that the applicant's vision meets or exceeds the standards established by the department. The commissioner shall request and receive assistance from the commissioner of health and social services in implementing this section.

(c) A requirement for a medical examination under this chapter is satisfied if the applicant is the holder of a current and valid first- or second-class medical certificate issued under federal aviation regulations and has satisfied any applicable requirement of the Department of Education relating to tests for tuberculosis if applicable.

(d) The department may enter into agreements with other state agencies, municipalities, or qualified persons for the purpose of [illegible] examinations required under this chapter. (§ 19 ch 178

Sec. 28.15.091. Department may require re-examination. If the department has good cause to believe that a licensed driver is incompetent or otherwise not qualified to be licensed, it may upon written notice of at least 10 days to the licensee require him to submit to an examination. Upon conclusion of the examination, the department shall take action as may be appropriate and may cancel the license of the person, or may issue a restricted license under § 121 of this chapter, or restrict the type or class of vehicles that the person may drive. If the licensee refuses or neglects to submit to examination, the department may suspend his license until he complies with the requirements of re-examination. (§ 19 ch 178 SLA 1978)

Sec. 28.15.101. Expiration and renewal of driver's license; re-examination. (a) Unless otherwise provided in this chapter, a driver's license expires on the licensee's date of birth in the fifth year following issuance of the license. A license is renewable within one year of its expiration upon proper application, successful completion of a test of the licensee's eyesight, and payment of the required fee.

(b) The department may defer the expiration of the driver's license of a person who is outside the state under terms and conditions which the department shall prescribe by regulation. (§ 19 ch 178 SLA 1978)

Sec. 28.15.111. Licenses issued to drivers; anatomical gift document. (a) Upon successful completion of the application and all required examinations, and upon payment of the required fee, the department shall issue to every qualified applicant a driver's license indicating the type or general class of vehicles which the licensee may drive. The license shall display

(1) a distinguishing number assigned to the license;

(2) the licensee's full name, address, date of birth, brief physical description, and color photograph; and

(3) either a facsimile of the signature of the licensee or a space upon which the licensee must write his usual signature with pen and ink. No license is valid until signed by the licensee. If facilities are not available for the taking of the photograph required under this section, the department shall endorse on the license, the words "valid without photograph."

(b) The department shall provide, at the time that an operator's license is issued, a form for a document by which the owner of a license may make an anatomical gift under AS 13.50.010 — 13.50.090. The document (1) may not be larger than an operator's license, (2) shall contain sufficient space for the signature of two witnesses to the donor's act of execution of the document, and (3) shall provide a means by which the donor may cancel the gift. If the document making an anatomical gift is executed by the applicant, it shall be sealed in plastic and attached to the license. A symbol indicating the existence of the anatomical gift

Sec. 28.15.121. Restricted driver's license. (a) The department, upon issuing a driver's license, may for good cause impose restrictions suitable to the licensee's driving ability with respect to special mechanical control devices required on a motor vehicle which the licensee drives. The department may impose other restrictions applicable to the licensee that it determines to be appropriate to assure the safe operation of a motor vehicle by the licensee.

(b) The department may issue a special restricted license or may set out restrictions on the usual license form.

(c) The department may, upon receiving satisfactory evidence of a violation of the restrictions on a license restricted or issued under this section, suspend the restricted license for a period not to exceed 30 days.

(d) No person may drive a motor vehicle in violation of the restrictions imposed on a restricted license. (§ 19 ch 178 SLA 1978)

Sec. 28.15.131. License to be carried and exhibited on demand. Every licensee shall have his driver's license in his immediate possession at all times when driving a motor vehicle, and shall present for inspection his license upon the demand of a peace officer or other authorized representative of the department who identifies himself as such. However, a person charged with violating this section may not be convicted if he produces in court or in the office of the arresting or citing officer, a driver's license previously issued to him which was valid at the time of his arrest or citation. (§ 19 ch 178 SLA 1978)

A licensing statute cannot be used as a means for obtaining information or evidence not related to the licensing requirement. Schraff v. State, Sup. Ct. Op. No. 1223 (File No. 2263), 544 P.2d 834 (1975), decided under former AS 28.15.090.

Sec. 28.15.141. Duplicate driver's license. If a valid driver's license issued under this chapter is lost or destroyed, the person to whom the license was issued may, upon payment of the required fee, obtain a duplicate license. A person who recovers an original license for which a duplicate has been issued shall immediately surrender the duplicate to the department. (§ 19 ch 178 SLA 1978)

Sec. 28.15.151. Records to be kept by the department. (a) The department may maintain a file of

(1) every driver's license application, license or permit and duplicate driver's license issued by it;

(2) every license which has been suspended, revoked, canceled, limited, restricted, or denied, and the reasons for those actions; and

(3) all accident reports required to be forwarded to the department under this title.

(b) The department may also maintain a file of all accident reports, abstracts of court records of convictions of vehicle, driver and traffic

furnish a municipal, state or federal administrative or judicial agency with a certified abstract of the driving record of a driver. The abstract shall include a listing of accidents in which the driver has been determined by the department or a court of competent jurisdiction to have been liable, convictions of vehicle, driver and traffic offenses, any actions taken upon his license, and information relating to financial responsibility.

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver with an abstract of the driver's record as provided in (c) of this section.

(e) An insurance carrier may not require a person to furnish an abstract of his driving record to the carrier as a condition for providing the person with motor vehicle insurance.

(f) Except as provided otherwise in this section, information and records under this section are declared confidential and private. (§ 19 ch 178 SLA 1978)

Article 2. Cancellation, Suspension, Revocation or Limitation of Drivers' Licenses.

Section
161. Cancellation of driver's license
171. Suspending privileges of a person licensed in another jurisdiction; reporting convictions, suspensions, and revocations
181. Court suspensions, revocations, and limitations
191. Court reports to department
201. Limitation of driver's license
211. Periods of limitation suspension or revocation; opportunity for hearing and surrender of license

Sec. 28.15.161. Cancellation of driver's license. (a) The department shall cancel a driver's license upon determination that

(1) the licensee is not medically or otherwise entitled to the issuance or retention of the license, or has been adjudged incompetent to drive a motor vehicle;

(2) there is an error or defect in the license;

(3) the licensee failed to give the required or correct information in his application; or

(4) the license was obtained fraudulently.

(b) The licensee may apply for a new license at any time after cancellation upon removal of the cause for the cancellation. (§ 19 ch 178 SLA 1978)

Intent of act. — This act plainly expresses the intent that all revocations and suspensions of operators' licenses be the act of the Department of Public Safety. Knudsen v. City of Anchorage, Sup. Ct. Op. No. 21 (File No. 58), 368 P.2d 975 (1960), 458 P.2d 340 (1969); Glasgow v. State, Sup. Ct. Op. No. 616 (File No. 1049), 469 P.2d 682 (1970), and Baker v. City of Fairbanks, Sup. Ct. Op. No. 618 (File No. 1141), 471 P.2d 386 (1970). These cases were decided under former AS 28.15.170.

Am. Jur., Automobiles and Highway Traffic, §§ 136 to 141.

Validity, construction and application of statute or ordinance relating to revocation of license, 71 ALR 616; 108 ALR 1162; 125 ALR 1459.

What amounts to conviction within statute making conviction ground for refusing or cancelling license, 113 ALR 1179.

Necessity and sufficiency of notice and hearing before revocation of driver's license, 10 ALR2d 833.

60 C.J.S., Motor Vehicles, §§ 159, 160.

Sec. 28.15.171. Suspending privileges of a person licensed in another jurisdiction; reporting convictions, suspensions, and revocations. (a) The privilege of driving a motor vehicle on a highway or vehicular way or area of this state given to a person licensed in another jurisdiction is subject to suspension or revocation by the department in the same manner and for the same reasons as a driver's license issued under this chapter.

(b) The department may, upon receiving the record of a conviction of a person licensed in another jurisdiction for a vehicle, driver, or traffic offense in this state, or upon suspending or revoking the person's driving privilege, forward a copy of the record or suspension or revocation to the motor vehicle administrator for the jurisdiction in which the person convicted has his driver's license. (§ 19 ch 178 SLA 1978)

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 154 to 156.

Sec. 28.15.181. Court suspensions, revocations, and limitations. (a) The following are grounds for the immediate suspension or revocation of a driver's license:

(1) manslaughter or negligent homicide resulting from the driving of a motor vehicle;

(2) a felony in the commission of which a motor vehicle is used;

(3) failure to stop and give aid as required under the laws of this state when a motor vehicle accident results in the death or personal injury of another;

(4) perjury or the making of a false affidavit or statement under oath to the department under a law relating to motor vehicles;

(5) driving or operating a motor vehicle while under the influence of alcohol or another drug;

(6) reckless driving; or

(7) using a motor vehicle in unlawful flight to avoid arrest by a peace officer.

(b) A court convicting a person of an offense under (a)(1) — (7) of this section shall revoke that person's driver's license for a period of not less than 30 days for the first conviction, unless the court determines that the person's ability to earn a livelihood would be severely impaired and

or danger to the public. If a court limits a person's license under this subsection, it shall do so for a period of not less than 30 days. Upon a subsequent conviction of a person for any offense under (a) of this section, the court shall revoke the person's license and may not grant him any limited license privileges for the following periods:

(1) not less than one year for the second conviction; and

(2) not less than three years for a third or subsequent conviction. (§ 19 ch 178 SLA 1978)

Sec. 28.15.191. Court reports to department. (a) A court which convicts a person of an offense under this title or a regulation adopted under this title, or another law or regulation of this state, or a municipal ordinance which regulates the driving of vehicles, shall forward a record of the conviction to the department. A conviction of a standing or parking offense need not be reported.

(b) A conviction on a plea of nolo contendere accepted by the court or a forfeiture of bail or collateral deposited to secure a defendant's appearance in court which has not been vacated is equivalent to a conviction for purposes of this chapter.

(c) A court which suspends, revokes, or limits a driver's license shall require the surrender of the license, and shall immediately forward it to the department with the record of conviction and notification of the effective date of the suspension, revocation or limitation as determined under § 211(b) of this chapter.

(d) A court which limits a driver's license, in addition to the actions required under (c) of this section, shall issue to the licensee a form specifying the court's limitations imposed upon a person's driver's license, and shall immediately forward to the department a copy of the limitations imposed upon the license.

(e) A court shall report to the department every change of name authorized by it, and the name, address, age, description, and driver's license number if available, of every person adjudged to be afflicted with or suffering from a mental disability or disease, or to be an habitual user of alcohol or another drug. The department shall prescribe and furnish the forms for making these reports. (§ 19 ch 178 SLA 1978)

For case where magistrate recommended suspension of driver's license for three years, see Hanrahan v. City of Anchorage, Sup. Ct. Op. No. 121 (File No. 247), 377 P.2d 381 (1962), decided under former AS 28.15.190

Sec. 28.15.201. Limitation of driver's license. (a) A court of competent jurisdiction may, for good cause, impose limitations upon the driver's license of a person which will enable the person to earn a livelihood without excessive risk or danger to the public. However, no limitation may be placed upon a driver's license until after a review has been made of the person's driving record and other relevant information.

nor may a limitation be imposed when a statute specifically prohibits the limitation of a license for a violation of its provisions.

(b) A court imposing a limitation under this section shall require the surrender of the driver's license and shall issue to the licensee a certificate valid for the duration of the limitation.

(c) After the termination of a limitation as shown on the certificate issued under (b) of this section, a person on whom a limitation was imposed is no longer bound by the limitation and may apply for a duplicate license under § 141 of this chapter. (§ 19 ch 178 SLA 1978)

Sec. 28.15.211. Periods of limitation, suspension or revocation; opportunity for hearing and surrender of license. (a) Except for a point system suspension or revocation under §§ 221 — 241 of this chapter and unless provided otherwise by law, and unless the suspension or revocation was for a cause which has been removed, a person whose driver's license or privilege to drive a motor vehicle in this state has been suspended or revoked may not apply for a new license nor may his driving privilege be restored until the expiration of

(1) one month from the date on which the license was suspended or revoked for a first conviction of the particular offense from which the suspension or revocation resulted;

(2) three months from the date on which the license was suspended or revoked for a second conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted;

(3) one year from the date on which the license was suspended or revoked for a third or subsequent conviction within 12 consecutive months of the same offense from which the suspension or revocation resulted; or

(4) three months from the date on which the license was revoked for refusal to submit to a chemical test as required in AS 28.35.032; however, if the person who refuses to submit to the chemical test, within two years previous to his arrest, has been convicted in this or another jurisdiction of driving a motor vehicle while intoxicated, the period of revocation for his license of privilege to drive is one year.

(b) A limitation, suspension, or revocation of a driver's license imposed by a court takes effect on the date of final judgment, except that if another limitation, suspension, or revocation of license is in effect on the date of final judgment, the effective date of the last imposed limitation, suspension, or revocation is at the end of the last day of the previous limitation, suspension, or revocation unless the court specifies otherwise.

(c) At the end of a period of suspension or limitation, the person whose license has been suspended or limited may apply to the department and, upon payment of the proper fee, be issued a duplicate driver's license

of a new license, but shall submit to re-examination and pay all required fees.

(e) At the end of a period of limitation, suspension or revocation under this chapter, the department may not issue a driver's license or a duplicate driver's license to the licensee until he has complied with ch. 20 of this title relating to proof of financial responsibility.

(f) Unless otherwise provided by law, periods of limitation shall be made at the discretion of the court. (§ 19 ch 178 SLA 1978)

Article 3. Point System.

Section
221. Point system
231. Assessment of points; driver improvement interview
241. Reduction of points
251. Suspension, revocation, limitation, denial
261. Definitions

Sec. 28.15.221. Point system. (a) For the purpose of identifying habitually reckless or negligent drivers and habitual or frequent violators of traffic laws, the commissioner shall adopt regulations establishing a uniform system for the suspension, revocation, limitation or denial of a driver's license or driving privilege by assigning demerit points for convictions for violations of traffic laws which are required to be reported to the department under § 191 of this chapter.

(b) The regulations adopted under (a) of this section shall include a designated level of point accumulation which identifies drivers who are habitually reckless or negligent or who are habitual or frequent violators of traffic laws, so as to show a disrespect for traffic laws and a disregard for the safety of other persons. In formulating the point system authorized by this section, the commissioner shall, in the interest of interstate uniformity, provide for suspension, revocation or denial of a driver's license or privilege for an accumulation of 12 or more points as a result of offenses committed during any consecutive 12-month period or 18 or more points as a result of offenses committed during any 24-month period. (§ 19 ch 178 SLA 1978)

Sec. 28.15.231. Assessment of points, driver improvement interview. (a) Notice of each assessment of points may be given, but notice shall be given when the point accumulation reaches 50 per cent of the number at which suspension, revocation or denial is required under § 221(b) of this chapter, and a driver who has reached that level of point accumulation shall be identified as a problem driver. The department may require a problem driver to appear for a driver improvement interview. The purpose of that interview is to assist the person who is identified as a problem driver in overcoming substandard driving habits. An interview under this subsection is to be conducted in

recommendations designed to improve his driving abilities which are made to him during the interview.

(b) No points may be assessed for violating a provision of a state law or regulation or a municipal ordinance regulating standing, parking, equipment, size or weight; nor may points be assessed for violations by pedestrians, passengers or bicycle riders, or for violations of provisions relating to the preservation of the condition of traffic-control devices on the highways. Points shall be assessed for violations of oversize or overweight permits relating only to restrictions upon speed or hours of operation.

(c) If a licensee is convicted of two or more traffic violations committed on a single occasion, the licensee shall be assessed points for one offense only, and if the offenses involved have different point values, the licensee shall be assessed for the offense having the greater point value.

(d) The time periods provided for in this section for the accumulation of points shall be based upon the date of violation, but points may not be assessed until after conviction, either upon a plea of guilty, nolo contendere, or a forfeiture of bail, or as a result of a trial, for violation of the traffic laws.

(e) The points assessed and the application of them against the licensee by the department under this section are in addition to, and not in substitution for, other provisions of this chapter and are not a substitute for any penalty imposed by a court. (§ 19 ch 178 SLA 1978)

Sec. 28.15.241. Reduction of points. (a) Two points shall be deducted from a licensee's assessed total if he has not been convicted of a violation of traffic laws which occurred during the 12-month period after the date of the last violation of which he was convicted.

(b) In addition to (a) of this section, two points shall be deducted from the assessed total upon the driver's furnishing to the department adequate proof of successful completion within 12 months of the date of his last violation of a driver improvement course approved by the department. No more than one course may be used to obtain a reduction in points in any 12-month period.

(c) From January 1, 1975, one point shall accumulate to the driver's benefit for each year of licensed, violation-free driving. (§ 19 ch 178 SLA 1978)

Sec. 28.15.251. Suspension, revocation, limitation, denial. (a) The department shall suspend, revoke, limit, deny, or initiate other remedial action against the driver's license of a person, upon his failure to

(1) appear for a driver improvement interview under § 231(a) of this

(b) The department shall suspend, revoke, or deny a driver's license of a person who has been identified through his point accumulation as an habitual or frequent violator under § 221 of this chapter.

(c) No suspension, revocation, limitation, or denial of, or other action against, a driver's license under §§ 221 — 261 of this chapter may be for more than one year.

(d) If a driver's license is suspended or revoked upon the accumulation of the number of points which require that action under §§ 221 — 261 of this chapter and regulations adopted under those sections, no limited license may be issued to that person during the period of suspension or revocation.

(e) Except for immediate action under § 181 of this chapter, when the department proposes to take action against a driver's license under (b) of this section, it shall notify the licensee that the proposed action shall become effective 30 days from the date of the notice, except that the licensee shall have the right, within the 30-day period, to make an oral or written answer or statement in which he may controvert any point or issue and he may present evidence and arguments for the consideration of the department pertinent to the action to be taken or the grounds for the action.

(f) Upon receipt of an oral or written answer or statement from the licensee, the department shall make findings on the matter under consideration and shall notify the person involved of its decision in writing by registered mail. If the department's decision is to sustain an action against the licensee's driver's license, the department shall notify the licensee of his opportunity for a hearing under AS 28.05.121 — 28.05.141. (§ 19 ch 178 SLA 1978)

Sec. 28.15.261. Definitions. In §§ 221 — 261 of this chapter (1) "traffic laws" means statutes, regulations, and municipal ordinances governing the driving or movement of vehicles; (2) "licensee" includes, but is not limited to an applicant for a new driver's license if his license was revoked under §§ 221 — 261 of this chapter. (§ 19 ch 178 SLA 1978)

Article 4. Fees.

Section
271. Fees

Sec. 28.15.271. Fees. The fees for drivers' licenses and permits, including but not limited to renewals, are as follows:

(1) all classes of drivers' licenses ..... $ 5;
(2) motor-driven cycles ..... $ 2;
(3) instruction permit ..... $ 1;
(4) duplicate of driver's license or instruction permit ..... $ 2;

Am. Jur. and C.J.S. references. — 5 Am. Jur., Automobiles, § 127; 5A Am. Jur., Automobiles and Highway Traffic, §§ 127 to 135.

60 C.J.S., Motor Vehicles, § 156.

Article 5. Driver License Violations.

Section
281. Unlawful use of license; permitting unauthorized person to drive
291. Driving while license canceled, suspended, revoked or in violation of limitation

Sec. 28.15.281. Unlawful use of license; permitting unauthorized person to drive. (a) No person may

(1) display, cause or permit to be displayed, or have in his possession a canceled, suspended, revoked, fictitious or unlawfully altered driver's license;

(2) display or represent as his own a driver's license not issued to him;

(3) display or present a driver's license other than an Alaska driver's license to a peace officer or to the department when that person has been licensed under this chapter; or

(4) lend his driver's license to another person or knowingly permit the use of his license by another.

(b) No person may authorize or knowingly permit a motor vehicle owned by him or under his control to be driven in this state by a person who is not validly licensed. (§ 19 ch 178 SLA 1978)

Sec. 28.15.291. Driving while license canceled, suspended, revoked or in violation of limitation. (a) No person may drive a motor vehicle on a highway or vehicular way or area in this state at a time when his driver's license, or privilege to drive in this state if he is licensed in another jurisdiction, has been canceled, suspended or revoked or when he is driving in violation of a limitation placed upon his license, even when he is driving under a license issued in another jurisdiction. Upon conviction of a violation of this section, the court shall impose a minimum sentence of imprisonment of not less than 10 days. The execution of sentence may not be suspended nor may probation or parole be granted until the minimum imprisonment provided in this section has been served; nor may imposition of sentence be suspended, except upon the condition that the defendant be imprisoned for no less than the minimum period provided for in this section. In addition, his license or privilege to drive shall be revoked, and he may not be issued a new license nor may his privilege to drive be restored for an additional period of one year after the date that he would have been entitled to restoration of his

(b) When a person's license is canceled, limited, suspended or revoked, he shall be informed by the department or the court which takes the action at the time of the action that, upon a conviction of driving on a highway or vehicular way or area in this state at a time when his driver's license or privilege to drive in this state has been canceled, suspended or revoked, or upon a conviction of driving in violation of a limitation of his license, he will be subject to the mandatory 10-day imprisonment under (a) of this section. (§ 19 ch 178 SLA 1978)

Ordinance not in conflict with former AS 28.15.300(a). — Home rule ordinance which prohibited driving a motor vehicle while one's license is suspended or revoked as did former AS 28.15.300(a) but which was not limited to public highways as was former AS 28.15.300(a) was not in conflict with former AS 28.15.300(a) and, therefore, was not invalid. Cremer v. Anchorage, Sup. Ct. Op. No. 1579 (File No. 3537), 575 P.2d 306 (1978).

Am. Jur. reference. — 5 Am. Jur., Automobiles, §§ 138, 777.

Chapter 17. Commercial Driver Training Schools.

Section
11. License required
21. Exemptions
31. Issuance and expiration of licenses; fees
41. Authority of commissioner to adopt regulations
51. Refusal, suspension, or revocation of license
61. Penalties
71. Definitions

Repeal of former chapter. — Section 20, ch. 241, SLA 1976, repealed former Chapter 17, entitled "Commercial Driver Training Schools." The former chapter consisted of §§ 28.17.010 — 28.17.080, and derived from § 1, ch. 215, SLA 1968.

Sec. 28.17.011. License required. No person may operate a commercial driver training school or act as an instructor of a commercial driver training school unless licensed by the department as provided in this chapter. (§ 4 ch 241 SLA 1976)

Sec. 28.17.021. Exemptions. A driver education course or training which is approved by the department or the Department of Education with the concurrence of the department, or is taught at an accredited college or university, is exempt from the provisions of this chapter, but an instructor employed by such a school or institution is exempt only to the extent that his activities are as an agent of the school or institution. (§ 4 ch 241 SLA 1976)

Sec. 28.17.031. Issuance and expiration of licenses; fees. (a) The

Sec. 29.53.020. Required exemptions. (a) The following property is exempt from general taxation:

(1) municipal, state or federally owned property, except that private leaseholds, contracts or other interest in the property shall be taxable to the extent of those interests;

(2) household furniture of the head of a family or a householder not exceeding $500 in value;

(3) property used exclusively for nonprofit religious, charitable, cemetery, hospital or educational purposes;

(4) property of a nonbusiness organization composed entirely of persons with 90 days or more of active service in the armed forces of the United States whose conditions of service and separation were other than dishonorable, or the property of the auxiliary of such organization;

(5) money on deposit;

(6) the real property of certain residents of the state to the extent and subject to the conditions provided in (e) of this section.

(b) "Property used exclusively for religious purposes" includes the following property owned by a religious organization:

(1) the residence of the pastor, priest, rabbi, minister or religious order of a recognized religious organization;

(2) a structure, its furniture and its fixtures used solely for public worship, charitable purposes, religious education or a nonprofit hospital;

(3) lots supporting and adjacent to a structure or residence mentioned in (1) or (2) of this subsection which are necessary to convenient use;

(4) lots required by local ordinance for parking near a structure defined in (2) of this subsection.

(c) Property described in (a) or (b) of this section from which income is derived is exempt only if that income is solely from use of the property by nonprofit religious, charitable, hospital, or educational groups for classroom space.

(d) Laws exempting certain property from execution under the Code of Civil Procedure (AS 09) do not exempt the property from taxes levied and collected by municipalities.

(e) After January 1, 1973 the real property owned and occupied as a permanent place of abode by a resident 65 years of age or over whose gross annual income totals less than $10,000 is exempt from taxation of the assessed value of the real property. Only one exemption may be granted with respect to the same property and, if two or more persons are eligible for an exemption with respect to the same property, the total combined gross annual income of the parties may not exceed $10,000. No real property may be exempted under this subsection which the assessor determines, after notice and hearing to the parties concerned, has been conveyed to the applicant primarily for the purpose of obtaining the exemption. The determination of the assessor is appealable under AS 44.62.560—44.62.570.

(f) No exemption may be granted except upon written application for the exemption on a form prescribed by the state assessor for use by local assessors. The claimant must file the application no later than January 15 of the assessment year for which the exemption is sought and must file a separate application for each assessment year in which the exemption is sought. If an application is filed within the required time and is approved by the assessor, he shall allow an exemption in accordance with the provisions of this section. The assessor may at any time require proof in the form he considers necessary of the right and amount of an exemption claimed under this section, and in that respect may as one form of proof require authorization from the taxpayer to verify gross income level by reference to gross income shown in the latest state income tax return available for all or part of the assessment year for which an exemption is sought.

(g) The state shall reimburse a borough or city, as appropriate, for the real property tax revenues lost to it by the operation of (e) of this section.

(h) Nothing in (e)—(i) of this section affects similar exemptions from property taxes granted by municipalities on September 10, 1972 or prevents municipalities from granting similar exemptions by ordinance as provided in § 25 of this chapter. However, under (e)—(i) of this section only the amount of revenue lost to the municipality by reason of the exemption authorized in those provisions may be reimbursed to the municipality by the state.

(i) In (e)—(i) of this section the term "real property" includes but is not limited to mobile homes, whether classified as real or personal property for municipal tax purposes. (§ 2 ch 118 SLA 1972)

History of section. — See City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1959).

This section was enacted pursuant to Alaska Const., art. IX, § 4. Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

Intent of constitutional convention. was being used to produce income should be taxable, that such other parts should be exempt, and that a proration between taxable and nontaxable parts should be made. 1962 Op. Att'y Gen., No. 15.

Purpose.—The purpose of this section is to encourage the establishment of privately supported nonprofit educational institutions; the motivation for their establishment is largely

Strict construction.—Provisions exempting property from ad valorem taxation must be strictly construed against the property holder and in favor of the taxing authority. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The power of deciding what types of education are to be publicly supported, either under the School Foundation Act or by tax exemption, is vested with the legislature. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

Alaska Const., art. IX, § 4, directs the legislature to define the educational exemption and encourage the exercise of that responsibility. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The phrase "educational purposes" as used in Alaska Const., art. IX, § 4, and subsection (a) of this section includes systematic instruction in any and all branches of learning from which a substantial public benefit is derived. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

This section in no way delimits the term "educational purposes," and there is no justification for the . preme court to give to that term a thing other than its ordinary mea ing. That restrictive definition is legislative concern seems especially apparent at a time when there is increasing desire for specialized practical education, a proliferation of new kinds of educational institutions, and rapidly changing concepts of mass education. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The minutes of the constitutional convention reveal no indication of what was intended to constitute an "educational" purpose, the drafters stating merely that they intended to adopt a "standard" state exemption. Nor has the legislature defined the term as it has done with regard to "religious purposes." McKee v. Evans, Sup Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

When exemption attaches.—Under this section, once it is determined that the institution involved is nonprofit in character and that the pro- taches. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The Apprenticeship and Manpower Training Trust Fund is entitled to an exemption from real property taxation by the Greater Anchorage Area Borough (GAAB) on the ground that its property is "used exclusively for nonprofit . . . educational purposes" within the meaning of subsection (a) of this section. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

The general public is clearly benefited both by the increased opportunity for Alaskans to obtain vocational training not otherwise available, and by the increased quality of service from a skilled trade. McKee v. Evans, Sup. Ct. Op. No. 740 (File No. 1382), 490 P.2d 1226 (1971).

"Charity" and "charitable purposes".—Neither in Alaska's Constitution nor in its general laws are the terms "charity" or "charitable purposes" defined. In such circumstances, resort to the common-law definition of these terms is appropriate. Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

It is quite clear that what is done t of good will and a desire to add the improvement of the moral, mental, and physical welfare of the public generally comes within this meaning of the word "charity." Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Rentals or income not derived as result of dominant profit motive.—If it appears that rentals or income are not derived as a result of a dominant profit motive on the charity's part, but are incidental to and reasonably necessary for the accomplishment of its charitable purposes, then such rentals or income are not within the ambit of subsection (c)'s limitation upon properties which qualify for a charitable exemption. Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Property of a charitable institution is not deprived of its exempt charac-

sary for carrying the primary purposes of its charitable corporation owner, and so long as the money derived was incidental. Sisters of Charity v. Greater Anchorage Area Borough, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Religious property is exempt from taxation.—All religious property in the state not used for business, rent or profit, is exempt from taxation. 1962 Op. Att'y Gen., No. 15.

But property of a religious organization used for the production of income is taxable. 1962 Op. Att'y Gen., No. 15.

Even in the latter situation, however, a proration must be made with regard to the property involved, between those portions being used for business, rent or profit, and those with no such use. 1962 Op. Att'y Gen., No. 15.

The fact that a segment of religious property is used for business, rent or profit, will not result in the taxation of the whole. 1962 Op. Att'y Gen., No. 15.

The words "the residence of the pastor," etc., imply that only those residences may qualify that have some direct relationship to a structure used primarily as a house of worship. Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

The parsonage of an assistant or lay pastor is exempt from an ad valorem tax under the broadened tax exemption provisions of Alaska Const., art. IX, § 4, and this section. Evangelical Covenant Church of America v. City of Nome, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 (1964).

Residences of church administrators and teachers do not qualify for property tax exemption. Harmon v. North Pac. Union Conference Ass'n of Seventh Day Adventists, Sup. Ct. Op. No. 591 (File No. 1060), 462 P.2d 432 (1969).

Church-operated radio station. — Ad valorem taxes may be assessed and collected upon the facilities and property of a radio station operated by a church [illegible] missionary work of the church. Evangelical Covenant Church of America v. City of Nome, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 1964), construing section prior to 1964 amendment.

To hold that a church-operated, profit-making radio station was exempt from ad valorem taxes would result in a taxed commercial business being forced to compete with the commercial activities of institutions claiming a tax exempt status under the law. Evangelical Covenant Church of America v. City of Nome, Sup. Ct. Op. No. 243 (File No. 457), 394 P.2d 882 (1964), construing section prior to 1964 amendment.

Property need not be used fully and continuously for exempt purposes. — Property, to be exempt from taxation because of its use for religious, charitable or educational purposes, need not be fully and continuously in use for such purposes. Sisters of Charity v. Greater Anchorage Area Borough, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Portion of property used intermittently for corporate purposes.—If a portion of the property of a charitable, religious or educational organization is used even intermittently for the corporate purposes, such portion is entitled to the exemption. Sisters of Charity v. Greater Anchorage Area Borough, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Determining portion of property devoted to purposes of organization. —Determination of what portion of property owned by a charitable, religious, or educational organization is devoted to purposes of the organization, is a factual function devolving upon the assessor and the board of equalization by law. Sisters of Charity v. Greater Anchorage Area Borough, 8 Alas. L.J. No. 11, p. 272 (Sept., 1970).

Nonutilization of property. — Decisions do not go so far as to hold that nonutilization of the property of a charitable, religious or educational organization continues to entitle the entirety of such property to exemption. Sisters of Charity v. Greater

tioned in this section, is not subject to valuation by first class cities for the purposes of AS 14.17.010 et seq., to the extent that it is exempt from taxation. 1962 Op. Att'y Gen., No. 18.

Exclusive employment of occupants of properties sought to be taxed was such as to bring these properties within the exemptions provided in subsections (b)(1) and (b)(2) for residences of ministers owned by religious organizations, or property used for "solely charitable purposes" or "religious education." North Pac. Union Conference Ass'n of Seventh Day Adventists v. Harmon, 5 Alaska L.J. No. 11, p. 228 (Nov., 1967).

The providing of recreational facilities, such as accommodations for campers, is a charitable use of the property. Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Electric cooperative operating under arrangement with federal agency is not exempt.—A nonprofit cooperative is not an agency of the United States government simply by virtue of an "arrangement" with the Rural Electrification Administration pursuant to 7 USC §§ 901—915, and therefore immune from local taxation. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

There is no statutory authority exempting the property of Chugach Electric Association from taxation by the city of Anchorage and the Anchorage independent school district. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

Exemption of property on federal land inapplicable to Railroad Reserve. — The doctrine that property located upon federally owned land is immune from local taxation is inapposite where it is not shown that the Railroad Reserve is "federal property" or under the exclusive jurisdiction of the federal government. City of Anchorage v. Chugach Elec. Ass'n, 17 Alaska 481, 252 F.2d 412 (9th Cir. 1958).

Sec. 29.53.025. Optional exemption and exclusions. (a) Municipalities may exclude or exempt or partially exempt residential property from taxation by ordinance ratified by the voters at a regular or special election.

(b) Municipalities may by ordinance

(1) classify boats and vessels for purposes of taxation and may establish the assessed valuation of boats and vessels on the basis of their registered or certificated net tonnage; a tax based upon a tonnage valuation shall not exceed $5 a year for a boat or vessel of less than five net tons and shall not exceed $15 a year for a boat or vessel of more than five net tons;

(2) classify and exempt from taxation

(A) the household furniture over $500 in value and the effects of the head of a family or a householder; and

(B) the property of an organization not organized for business or profit-making purposes and used exclusively for community purposes, provided that income derived from rental of such property

(C) historic sites, buildings and monuments.

(c) The provisions of (a) of this section notwithstanding,

(1) a home rule or first or second class borough may, by ordinance adopted without weighted voting, adjust its property tax structure in whole or in part to the property tax structure of a city within it, including but not limited to, excluding personal property from taxation, establishing exemptions and extending the redemption period;

(2) a home rule or first class city shall have the same power to grant exemptions or exclude property from borough taxes that it has as to city taxes, provided that the exemptions or exclusions have been adopted as to city taxes and further provided that the city appropriate to the borough sufficient money to equal revenues lost by the borough because of the exemptions or exclusions, the amount to be determined annually by the assembly without weighted voting.

(d) Exemptions or exclusions from property tax which have been granted by home rule municipalities in addition to exemptions authorized or required by law, and which are in effect on September 10, 1972 and not later withdrawn, are not affected by this Act. (§ 2 ch 118 SLA 1972)

City may not exempt property without express authority.—The authority of a municipal corporation to allow exemptions of particular property from taxation, unless expressly conferred by law, has very generally been denied. Valentine v. City of Juneau, 36 F.2d 904 (9th Cir. 1929).

Ordinance exempting from local taxation any class of real or personal property.—A home rule city has the power to enact an ordinance exempting from local taxation any class of real or personal property, if such an exemption is not prohibited by the city's home rule charter. 1969 Op. Att'y Gen., No. 1.

Valuation of full and true value not precluded. — The fact that first class cities may choose the tonnage valuation of ships for the purposes of taxation does not preclude them from making a valuation of full and true value for the purposes of taxation. It necessarily follows that boats and vessels should be valued at full and true value for the purpose of AS 14.17.010 et seq. 1962 Op. Att'y Gen., No. 18.

Rules applicable to second class cities.—The rules applicable to boats and vessels in first class cities apply equally to those under the jurisdiction of second class cities. 1962 Op. Att'y Gen., No. 18.

Sec. 29.53.030. Mining claims. The assessed value of an unimproved unpatented mining claim which is not producing, and a nonproducing patented mining claim upon which the improvements originally required for patent have become useless and valueless through depreciation, removal or otherwise, is fixed at $200 for each 20 acres or fraction of 20 acres. If the surface ground of a

dealer, and there was no evidence that he undertook to serve the public generally — that within the limits of his operations he was available to everyone who desired his service, the trial judge did not err in finding that he was not a common carrier. Schenderline v. Robertson, Sup. Ct. Op. No. 232 (File No. 459), 394 P.2d 395 (1964).

This section as evidence of legislative intent with respect to AS 42.10.130(d), (e) and (f). — See Lynden Transp., Inc. v. State, Sup. Ct. Op. No. 1120 (File No. 2100), 532 P.2d 700 (1975).

Am. Jur. and C.J.S. references. — 9 Am. Jur., Carriers, § 1 et seq.; 37 Am. Jur., Motor Transportation, § 1 et seq.; 43 Am. Jur., Public Utilities and Services, §§ 132 to 223.

13 C.J.S. Carriers §§ 2 to 14.

Sec. 42.10.020. Exempt vehicles. This chapter shall apply to all vehicles unless specifically exempted by this section. This chapter, except when specifically otherwise provided, does not apply to

(1) motor vehicles operated exclusively in the transportation of United States mail or in the transportation of newspapers or periodicals alone or in conjunction with an express service delivering packages not to exceed 100 pounds to any one receiver;

(2) motor vehicles owned and operated by the United States, the state, or a borough, city, town, or municipality in the state, or by a department of any of them, except when the vehicles are used to transport property of the general public for compensation in competition with other common carriers subject to this chapter, and to the extent regulation of vehicles operated by the United States is permitted by the laws of the United States;

(3) motor vehicles not exceeding a total gross weight of 12,000 pounds, owned and operated by a rancher, farmer, or dairyman in the transportation of his own ranch, farm, or dairy products from the point of production to market or to the point of transportation to market, or of supplies, commodities, or equipment used on his own ranch, farm, or dairy. Motor vehicles operating under this classification shall be identified as farm vehicles in accordance with regulations prescribed by the commissioner of revenue;

(4) vehicles operated by a construction contractor while performing such a business as defined in § 420(12) of this chapter except that weight fees in an amount as provided by § 240 of this chapter shall be paid for each vehicle designed to be operated on a public highway. (§ 5 ch 166 SLA 1960; am § 4 ch 121 SLA 1961; am § 1 ch 103 SLA 1963; am § 1 ch 107 SLA 1970)

Legislative committee report. — For report on ch. 107, SLA 1970 (HCSCSSB 271 am H), see 1970 House Journal, p. 902. Also refer to 1970 House Journal, p. 1244 (re HCSSB 543).

Quoted in Alaska Transp. Comm'n v. Hancock, Sup. Ct. Op. No. 578 (File No. 1044), 458 P.2d 1012 (1969).

Am. Jur. reference. — 37 Am. Jur., Motor Transportation, §§ 53 to 65.

Sec. 42.10.030. Compliance enjoined. It is unlawful for any person to operate as a motor carrier on a public highway of this state except in accordance with this chapter. (§ 6 ch 166 SLA 1960)

Chapter 54

AN ACT

Amending the motor vehicle code; and providing for an effective date.

Section 1. AS 28.10.011 is amended to read:

Sec. 28.10.011. VEHICLES SUBJECT TO REGISTRATION. Every vehicle driven, moved, or parked upon a highway or other public parking place in the state shall be registered under this chapter except when the vehicle is

(1) driven or moved on a highway only for the purpose of crossing the highway from one private property to another, including an implement of husbandry as defined by regulation;

(2) driven or moved on a highway under a dealer's plate or temporary permit as provided for in AS 28.10.031 and 28.10.181(j);

(3) special mobile equipment as defined by regulation;

(4) owned by the United States;

(5) moved by human or animal power;

(6) exempt under the Soldier's and Sailor's Civil Relief Act (50 U.S.C. App. [U.S.C.A. APPR.] 501 et seq.);

(7) driven or parked only on private property;

(8) the vehicle of a nonresident as provided under AS 28.10.121;

(9) a commercial interstate vehicle under AS 28.10.141; [OR]

(10) transported under a special permit under AS 28.10.151;

(11) driven or moved on a highway or vehicular way not

Chapter 11

AN ACT

Relating to parking permits for disabled persons.

Section 1. AS 28.10.495 is amended to read:

Sec. 28.10.495. PARKING PERMIT FOR VEHICLE TRANSPORTING DISABLED PERSON. (a) Upon application by [WHEN THE OWNER OR PERSON IN LAWFUL POSSESSION OF A VEHICLE PRESENTS TO THE DEPARTMENT WRITTEN PROOF, IN THE FORM OF AN AFFIDAVIT, THAT HE IS PRIMARILY RESPONSIBLE FOR THE TRANSPORTATION OF] a disabled or medically handicapped person, the department shall issue to the applicant, without charge, a special permit bearing the control number of the applicant [APPLICANT'S NAME, ADDRESS, DRIVER'S LICENSE NUMBER, AND THE REGISTRATION PLATE NUMBERS OF THE VEHICLES TO BE USED FOR THAT TRANSPORTATION]. The permit issued under this section, when displayed in the front windshield of a parked or standing vehicle, shall provide for special consideration by the public with respect to the parking or standing in designated spaces of a vehicle [WHICH IS NOT REGISTERED IN THE NAME OF THE DISABLED OR MEDICALLY HANDICAPPED PERSON, BUT] which is being used for the [PRIMARY] transportation of the disabled or medically handicapped [THAT] person.

(b) No person is entitled to use the special permit provided for in (a) of this section except

[(1) THE DRIVER NAMED ON THE PERMIT;

(2) WHEN IN A VEHICLE HAVING ITS REGISTRATION NUMBER ON THE PERMIT; AND

Chapter 144

AN ACT

[illegible] to the availability of an abstract of a driver's [illegible] and providing for an effective date.

[illegible] 1. AS 28.15 151(d) is amended to read:

(d) The department shall, upon request and payment of a fee determined by the commissioner, furnish a driver or a person designated by the driver with an abstract or the original copy of the computer stored record of the driver's record as provided in (c) of this section.

[illegible] 2. AS 28.15.151(a) is repealed.

[illegible] 3. This Act takes effect immediately in accordance with AS 01.10.-

Requested by Office of the Governor | Date 3-18-81

II. FISCAL DETAIL

Agency Affected Department of Public Safety

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Driver/Vehicle Services

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	Ø	Ø	Ø	Ø	Ø	Ø

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	Ø	Ø	Ø	Ø	Ø	Ø
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE 3-18-81 PREPARED BY Bill Brown

AGENCY Motor Vehicles - Driver Services

PHONE 465-4335

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

SB
349

STATE OF ALASKA

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811

April 8, 1981

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Room 207 - Capitol Building
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 349

Senate Bill No. 349, an Act establishing an office of cottage industries in the Office of the Governor, was introduced in the Senate on March 31, 1981 and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee. I am enclosing copies of Fiscal Notes prepared by Mr. Anselm Staack, Treasury Comptroller, Department of Revenue concerning the proposed legislation.

Sincerely,

R. D. Stevenson
Special Assistant

RDS/rdh

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner
Department of Revenue

Anselm Staack
Treasury Comptroller
Department of Revenue

04-D2LH

SENATE BILL NO. 349 (3/31/81)
PERSONAL SERVICES

Office of the Governor

1. PX - Director			
Salary	- R24 @4,022	- $48,264	
Benefits	- 48,264 x .1533	- 7,399	
FICA	- SBP Max.	- 2,004	
Health	- Mo. Fix. 12 X 150	- 1,800	$ 59,467
2. G - Loan Specialist			
Salary	- R19A @2,837	- $34,044	
Benefits	- 34,044 X .1533	- 5,219	
FICA	- SBP Max.	- 2,004	
Health	- Mo. Fix. 12 X 150	- 1,800	43,067
3. G - Secretary I			
Salary	- R10A @1,564	- $18,768	
Benefits	- 18,768 X .1533	- 2,877	
FICA	- 18,768 X .0613	- 1,150	
Health	- Mo. Fix. 12 X 150	- 1,800	24,595
	Sub-total		$127,129

Department of Revenue/Treasury

1. G - Accounting Technician I			
Salary	- R12A @1,761	- $21,132	
Benefits	- 21,132 X .1533	- 3,240	
FICA	- 21,132 X .0613	- 1,295	
Health	- Mo. Fix. 12 X 150	- 1,800	$ 24,467
	Sub-total		$ 24,467
	Grand Total		$154,596

4/8/81

TWELFTH LEGISLATURE

SB 349

FISCAL NOTE

(ADMINISTRATIVE COSTS)

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 349

Title Establishing an office of cottage industries and revolving loan fund

Requested by Senate Labor & Commerce Committee Date 3/31/81

II. FISCAL DETAIL

Agency Affected Office of the Governor, Dept. of Revenue

Program Category Affected

BRU, Program, or Subprogram(s) Affected

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		154.6	170.1	187.1	205.8	226.4
200	TRAVEL		5.0	5.5	6.1	6.7	7.3
300	CONTRACTUAL		20.0	22.0	24.2	26.6	29.3
400	COMMODITIES		1.0	1.0	1.2	1.2	1.3
500	EQUIPMENT		12.0				
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL		192.6	198.6	218.6	240.3	264.3

FUNDING (Thousands of Dollars)

GENERAL FUND		192.6	198.6	218.6	240.3	264.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		4	4	4	4	4
PART TIME						
TEMPORARY						

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

This bill establishes an Office of Cottage Industries in the Office of the Governor and a Cottage Industries Revolving Loan Fund over which the Dept. of Revenue has custody. Loans up to $250,000 can be made.

See seperate fiscal note for revolving loan fund requirements.

Above includes costs of personnel to administer the program. See attached sheet for breakdown of staffing component. Equipment is for new positions. Contractual costs for necessary consulting and possible legal work on agreements. Attached sheet shows allocation of personnel between Office of the Governor and the Dept. of Revenue. Travel, contractual and commodities all to the Office of the Governor.

IV. DATE April 8, 1981 PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

PHONE 465-2351

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE SB 349

FISCAL NOTE (LOAN FUND APPROPRIATION)

I. REQUEST

Bill/Resolution No. SENATE BILL NO. 349

Title Establishing an office of cottage industries and revolving loan fund

Requested by Senate Labor & Commerce Committee Date 3/31/81

II. FISCAL DETAIL

Agency Affected Department of Revenue

Program Category Affected General Fund

BRU, Program, or Subprogram(s) Affected

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND		10,000.0				
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This fiscal note shows the $10,000,000 appropriation to the Cottage Industries Revolving Loan Fund necessary so that the fund can start making loans.

Anselm C. Staack

IV. DATE April 8, 1981 PREPARED BY Anselm C. Staack, Treasury Comptroller

AGENCY Dept. of Revenue/Treasury Division

PHONE 465-2351

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

33-001 (Rev. 12/80)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 349:

The office of cottage industries shall be established in the Office of the Governor; the purpose of the Act is to provide venture capital & technical assistance to participants.

Section 2 outlines the duties of the executive director, appointed by the governor, and charges him with the establishment of eligibility standards for loans, and the administration or supervision of loans made under AS 44.19.192. The executive director is further responsible for coordinating activities, publishing and evaluating material dealing with cottage industries in the State, and keeping records of the activities of cottage industries. The director shall assist individuals by developing a training program, assist in the establishment of markets for goods produced by cottage industries, submit an annual report to the Legislature on the activities of the office, and maintain an administrative relationship with the Dept. of Revenue to facilitate lending activities.

A cottage industires revolving loan fund is established in the Office. Loans granted under this section may not exceed $250,000, with an interest rate of 3% or more, for a term not to exceed 10 years (except with permission of the Exec. Dir.) and must be used for venture capital. The initial loan may not be made until there are 10 million dollars or more in the fund.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 349

Title An act establishing an office of cottage industries in the Office of the Governor

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Division of Business Loans

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES	-0-	240.1	264.1	290.5	319.6	351.5
200	TRAVEL		15.8	17.4	19.1	21.0	23.1
300	CONTRACTUAL		42.3	46.5	51.2	56.3	61.9
400	COMMODITIES		2.1	2.3	2.5	2.8	20.5
500	EQUIPMENT		14.0	15.4	16.9	18.6	20.5
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	-0-	314.3	345.7	380.2	418.3	460.10

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	314.3	345.7	380.2	418.3	460.10
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	-0-	7	7	7	7	7
PART TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY		-0-	-0-	-0-	-0-	-0-

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

This fiscal note assumes that the Office of the Governor will request that the Division of Business Loans administers the Cottage Industries loan program.

Staffing related costs for processing and servicing loans.
(Fiscal Detail attached).

IV. DATE 4/9/81

PREPARED BY David Massey, Deputy Director

AGENCY Div. of Business Loans, Dept. of Commerce & Economic Development

PHONE 465-2510

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

33-001 (Rev. 12/80

Fiscal Note Detail
SB 349 - Office of Cottage Industries

100 -	2	Loan Examiner III's @ $2,837/mo. each	68.1	
	1	Loan Examiner III @ #3,260/mo.	39.1	
	2	Documents Processing Clerk III's @ $1,564/mo. each	37.5	
	1	Document Processing Clerk III @ 1,761/mo.	21.1	
	1	Accounting Technician I @ $1,761/mo.	21.1	
		Total Wages	186.9	
		Standard Benefits (Wages x .1555)	29.1	
		Supplemental Benefits (Wages x .0613)	11.5	
		Health Insurance (Man Months x $150)	12.6	
			53.2	
		Total Personal Services		240.1
200 -		Travel to Close Loans:		
		36 Trips @ $500	10.8	
		72 Days @ $72/day	5.0	
				15.8
300 -		Telephone and Postage	23.1	
		Printing of Applications and Advertising	7.7	
		Office Space, Anchorage (2 x $2,700)	5.4	
		Office Space, Fairbanks (2 x $3,067)	6.1	
				42.3
400 -		Office Supplies		2.1
500 -		Equipment		
		7 Desk @ $330	2.3	
		4 Credenzas @ $470	1.9	
		3 Typists Extensions @ $455	1.4	
		3 Executive Chairs @ $190	.1	
		4 Secretarial Chairs @ $150	.6	
		7 Sidechairs @ $100	.7	
		7 File Cabinets @ $325	2.3	
		3 Typewriters @ $1,000	3.0	
		3 Calculators @ $200	1.4	
		7 Wastebaskets @ $25	.2	
		1 Coat Rack @ $70	.1	
				14.0
				314.3

10% Inflation for Succeeding Years

Editor's note. — This section derives from AS 44.20.070 and was renumbered by the revisor under 01.05.031.

Sec. 44.19.188. Reports. The commission shall report annually to the state legislature and the governor concerning the work of the commission and shall recommend legislation by Congress and the state to carry out the purposes of AS 44.19.181 — 44.19.188. (§ 1 ch 85 SLA 1967)

Editor's note. — This section derives from AS 44.20.080 and was renumbered by the revisor under 01.05.031.

Chapter 21. Department of Administration.

Article
1. Department Functions (§§ 44.21.010 — 44.21.060)
2. Pioneers' Homes (§§ 44.21.100 — 44.21.130)
3. Automatic Data Processing (§§ 44.21.150 — 44.21.170)

Article 1. Department Functions.

Section
10. Commissioner of administration
20. Duties of department
25. Contracts to operate vending facilities in state buildings
30. Contracting with United States
40. Records or accounts of claims and warrants
50. Penalty for allowance of false, unjust or illegal claims
60. [Repealed]

Sec. 44.21.010. Commissioner of administration. The principal executive officer of the Department of Administration is the commissioner of administration. (§ 8 ch 64 SLA 1959)

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

Sec. 44.21.020. Duties of department. The Department of Administration shall

(1) Repealed by § 4 ch 97 SLA 1976.

(2) make surveys and studies to improve administrative procedures, methods, and organization;

(3) keep general accounts;

(4) approve vouchers and disburse funds for all purposes;

(5) operate centralized purchasing and supply services, and necessary storerooms and warehouses;

(6) allot space in state buildings to the various departments according to need and available space;

(7) supervise telephone, mailing, messenger, duplicating, and similar services adaptable to centralized management;

SB

404

COMMITTEE REPORT

SENATE

FURTHER: Finance

4/8/81

Date: 20 April, 1981

Mr. President:

The Committee on LABOR & COMMERCE has had SB 404

Alaska Industrial Development Authority

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[X] replace with CS for SB 404 [X] same title [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mulcahy
CHAIRMAN

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SECTIONAL ANALYSIS of CSSB 404

Section 1: Amends section defining the purpose of AIDA and expands the enterprises to whom AIDA may make loans; new language includes timber, agricultural, multi-family dwelling, and in (4)"the establishment, and expansion of industrial...." Elaboration of the declared policy of the State to create new economic growth.

Section 2: Establishes that a majority of the members constitute a quorum and provides for the transaction of business by conference phone (electronic media); further states that the authority conducting a meeting by electronic media has the same legal effect as a meeting in person if the public has the same right to participation. In the case of a tie vote, the motion or resolution shall be decided by the Governor, and if approved by him, shall be considered adopted by the Authority.

Section3: Elaborates on the purpose of the Authority including the new language timber, agriculture, multi-family dwelling, which expands the enterprises covered by AIDA.

(12)

Section 4: AS 44.88.080 is amended by including the language timber, agriculture, multi-family dwellings as projects which AIDA may purchase or insure loans to finance the costs for.

Section 5: AS 44.88.105 is amended by adding a subsection (f): Allows the Authority to secure revenue bonds by creating a reserve fund. The reserve fund would receive a deposit of assets from the Authority which secures the indebtedness owed to bondholders. The Authority is not obligated to bondholders to request appropriations to replenish the reserve fund if it should become depleted.

Section 6: Permits the Authority to embark on a major program to

buy interests in loans made by private financial institutions. This would mitigate the restricted market that would result if the tax exempt status of industrial development bonds is withdrawn or severely limited by congress.

Section 7: AS 44.88.157 (a) is amended to establish a loan insurance account providing insurance of loans made or purchased by the Authority for projects. Without limitation, the Authority may enter into agreements as to the use of money in the account, the terms and conditions for payments from the account, seperate subaccounts in the account for different categories of loans,and the payment and security for bonds issued by the authority.

Section 8: Establishes a project enterprises Loan Account composed of money or assets of the Authority, interest on investments and loans of the account. Further provides that the Authority may use these assets (loan account) to purchase loans made by others to project enterprises to pay for the costs of those projects. (refinancing provision)

Section 9: Loans purchased thru the loan account may not exceed:

A. $6 million for tourism, timber, agricultural, multi-family dwelling, and commercial fishing enterprises;
B. $1 million for a loan made to a mining or small business enterprise
C. $500,000 for each commercial fisherman in a commercial fishing enterprise if the loan is made to a commercial fishing enterprise.

Unless the loan is Federally insured, guaranteed, or insured by a qualified mortgage insuror, the loan may not exceed 75% of the cost of the project or, 75% of the appraised value of the project.

(3) The loan may not be made for a term longer than 3/4's of the Authority's estimate of the project life, or 25 years from the date the loan is made, which ever is earlier;

(4), (5), and (6) contain technical provisions presently in the statutes describing current provisions.

(7) New subsection requiring 10% participation from private lending sources.

Section 10: AS 44.88.158 (d) is amended to read: Authority may adopt

regulations for the administration of the loan account including provisions for application fees, loan commitments, servicing, and the origination of loans made by other lenders.

Section 11: Provides the Authority may enter into agreements for the use of the money in the loan account, and pledge, assign, or grant agreements necessary to provide for payment and security of the Authority bonds.

Section 12: The Authority may purchase agricultural enterprise loans made by the Alaska Rural Rehabilitation Corporation, with an interest rate not to exceed 8% to the borrower. Loans purchased may be secured by substitute collateral providing the loan does not exceed 75% of the value of the total collateral for the loan.

Section 13: The interest for loans purchased by AIDA with money from the loan account or proceeds from taxable bonds is set at one half of one percent more than the interest rate for a bond issue of the Authority which does not exceed $1,000,000 in principal amount.

Section 14: If more than 2% of loans purchased from finacial institutions become delinquent for 90 days or more, the Authority must discontinue purchasing loans from that institution until the delinquency is reduced to less than 2%.

Section 15: Defines business enterprise including new language for any purpose, other than on a non-profit basis.

Section 16: Defines project substituting the word means for (INCLUDES) and elaborates on commercial activity by the approved enterprises as defined in (12), (13), (14), (15), (16), (17), and (18) of AS44.88.220.

Section 17: Defines small business enterprise as a project applicant with annual profits before the payment of Taxes (GROSS INCOME) of $10 million or less for its annual reporting period which ended immediately before the application to the Authority for a loan;

Section 18: Defines tourism enterprise

Section 19: Defines commercial fishing enterprise

Section 20: Defines mining enterprise

Section 21: Defines Agricultural enterprise, timber enterprise, and multi-family dwelling enterprise;

Section 22: Authorizes the Authority to issue up to $400,000,000 in revenue bonds to provide financing for eligible projects.

Section 23: Repeals AS 44.88.158 (b) and (f) and Sec 9 (c), ch 120, SLA 1980.

Section 24: Act takes effect immediately

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 21 April, 1981

The Senate Committee on Labor and Commerce held a committee meeting on 20 April, 1981. The meeting was called to order by Senator Mulcahy and began with a background description of the origin of SB 404. Senator Mulcahy entertained a motion to address a proposed committee substitute for SB 404, which was seconded by Senator Fahrenkamp. Senator Mulcahy asked Buzz Hoffman, Executive Director of AIDA to provide the committee with a section by section analysis of CSSB 404.

Mr. Hoffman prefaced his analysis by saying that CSSB 404 closely approximates a bill drafted by the board of directors of AIDA, submitted to the Governor, which emerged as SB 404.

Mr. Hoffman began his sectional analysis, and Senator Mulcahy asked if Section 1 would grant AIDA the ability to refinance. Mr. Hoffman replied in the affirmative and Senator Fahrenkamp posed a question about the teleconference references in the bill and whether they would save money. Mr. Hoffman replied that they would both save money and facilitate the transaction of business.

The sectional analysis continued and in Section 9 Senator Ziegler asked if the amounts could be increased to 10 million dollars. Mr. Hoffman elaborated on the increases, and Senator Ziegler suggested, rather than by a motion, that we should increase the amount to 10 Million dollars. Senator Mulcahy asked why mining should be limited to 1 million, and Mr. Hoffman answered that maybe all programs should be treated equally. Senator Mulcahy asked if the loan ceilings were increased to 10 million dollars, how quickly would the fund be depleted and what fiscal impacts would there be to the State. Mr. Hoffman answered that AIDA could function with that ceiling, but again reminded the Committee on the "moral obligation" of the State. Senator asked what the pleasure of the committee was? Senator Ziegler mentioned that it would be necessary rewrite changes in language in the bill.

Senator Mulcahy addressed the deleted language on page 6, line 8, which was in turn clarified by Mr. Hoffman.

In Section 12, Mr. Hoffman explained the provisions which applied to the Alaska Rural Rehabilitation Corporation, and Senator Mulcahy asked if that section would require a separate appropriation to subsidize the interest. Senator Fahrenkamp asked whether they might be better to address their financial needs thru CFAB. Mr. Hoffman discussed AIDA interest rates and Senator Mulcahy asked what AIDA's present interest rates are.

Mr. Hoffman continued with a definition of small business, to which Senator Hohman asked if Co-ops (profit) would qualify for loans under that definition. Mr. Hoffman replied that Co-ops would come under the small business enterprise projects, and Senator Mulcahy commented that this would open up financing to many more people. Buzz Hoffman agreed and said that many more people would be eligible. Senator Hohman posed a question about tank farms and the problem at Aniak, asked about fish processing financing, hunting lodges, fishing camps and general tourism financing. Mr. Hoffman said they would be acceptable projects. Both Senator Ziegler and Senator Fahrenkamp commended Buzz Hoffman on a very fine presentation.

The next testimony came from John Fullenwilder who spoke about fire protection systems, relating to a House Bill and Senate Bill of last year which inadvertantly prevented financing for prospective installation of these systems. Senator Mulcahy reffered Mr. Fullenwilder (Deputy Fire Marshall, Municipality of Anchorage) to address Mr. Hoffman as to the specifics of the financing, and Mr. Fullenwilder thanked the committee for their assistance.

Sterling Gallagher testified next; addressing the issue of multi-family dwellings, changes in loan criteria if the ceiling on AIDA loans was increased to 10 million dollars, and the capital requirements for the bill. Mr. Gallagher entertained questions about multi-family dwellings, which were further elaborated on by Mr. Hoffman. He specifically addressed the 20% low to moderate income requirement explaining the ASHA subsidy for the rent.

Mr. Jim Clark testified in support of the bill, expounding on the perspective of the timber industry for whom he is employed as a lobbyist. The Chair entertained a motion to pass the CS from committee with individual reccommendations. The meeting was adjourned.

STATE OF ALASKA

JAY HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

April 6, 1981

RECEIVED
ALASKA DEPARTMENT OF REVENUE
APR 7 1981
THE COMMISSIONER

M E M O R A N D U M

To: Honorable Jay S. Hammond
Governor

From: Wilson L. Condon
Attorney General

Re: Attached bill relating to A.I.D.A.
Our file: J-77-135-81

Attached is a bill requested by the members of the Alaska Industrial Development Authority. The bill was originally drafted by the law firm of Wohlforth and Flint, and has been redrafted by this department. The bill has been prepared for introduction in both houses.

The amount authorized for the issuance of revenue bonds was increased to $400,000,000 from the original amount of $250,000,000 contained in the draft submitted to this department by A.I.D.A. This was done at the request of Commissioner Williams of the Department of Revenue.

WLC:bjl:JLB

cc w/enc.: Honorable Thomas K. Williams
Commissioner
Department of Revenue

Buz Hoffman, Executive Director
Alaska Industrial Development
Authority
601 W. 5th Ave.
Suite 430
Anchorage, Alaska 99501

Lee Coffman, Chairman
Alaska Industrial Development
Authority
601 W. 5th Ave.
Suite 430
Anchorage, Alaska 99501

03-C5LH

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which relates to the Alaska Industrial Development Authority (the authority).

Section 1 of the bill authorizes the authority to issue up to $400,000,000 in revenue bonds to provide fin cing for projects which are eligible for assistance from the authority.

Section 2 of the bill repeals a condition enacted in ch. 120, SLA 1980, which requires the reversion to the general fund of $166,000,000 in loans appropriated to the enterprise development fund administered by the authority if the loans aren't pledged as security for revenue bonds. Under amendments made in sec. 6 of the bill, money earned from these loans may be used by the authority to buy interests in loans made by private financial institutions to finance industrial development projects or for tourism, mining, commercial fishing or small business loans.

Section 4 of the bill allows the authority to meet and transact business by conference telephone. The authority meets each week to take action on loan applications. It is essential that the consistent participation of all members of the authority be assured without the inconvenience and loss of time resulting from constant travel from one meeting location to the next.

Section 5 of the bill allows the authority to secure revenue bonds by creating a reserve fund. The reserve fund would receive a deposit of assets from the authority which secures the indebtedness owed to bondholders. The authority is not obligated to bondholders to request appropriations to replenish the reserve fund if it should become depleted.

Section 6 of the bill permits the authority to embark on a major program to buy interests in loans made by private financial institutions. This would mitigate the restricted market that would result if the tax exempt status of industrial development bonds is withdrawn or severely limited by Congress.

Sections 7 -- 10 of the bill amend statutes relating to the small business, tourism, mining, and commercial fishing loan program. These amendments authorize the authority to buy interests in loans made by private financial institutions even if those loans are not financed with the proceeds earned from the sale of revenue bonds of the authority.

Section 11 of the bill requires the authority to stop purchasing loans from a financial institution if more than two percent of the loans purchased from the institution become delinquent for 90 days or more. This section expands existing law which imposes the same requirement but only for tourism, small business, commercial fishing, or mining loans purchased by the authority.

Section 12 of the bill specifies the interest rate for loans purchased by the authority with money in the small business, tourism, commercial fishing, and mining enterprise loan account or with proceeds of bonds with taxable interest. The rate of interest is set at one-half of one percent more than the interest rate set for a bond issue of the authority which does not exceed $1,000,000 in principal amount.

Sections 13 -- 18 make technical amendments to the definitions in existing law.

The repeal of AS 44.88.158(b) and (f), contained in sec. 19 of the bill, is included to remove provisions in existing law which would be superseded if secs. 11 and 12 become law.

Sincerely,

Jay S. Hammond
Governor

(8) "revenues" means all fees, charges, money, profits, payments of principal of or interest on municipal bonds and other investments, gifts, grants, contributions, appropriations and all other income derived or to be derived by the bond bank authority under this chapter. (§ 1 ch 79 SLA 1975; am § 2 ch 48 SLA 1978; am §§ 1, 2 ch 23 SLA 1980)

Effect of amendments. — The 1978 amendment in paragraph (3), designated the former provisions of that paragraph as subparagraph (A), added "a general obligation bond which is" to the beginning of that subparagraph, inserted "to the extent permitted by law" in that subparagraph, added "or" to the end of that subparagraph, and added subparagraphs (B) and (C).

The 1980 amendment in subparagraph (B) of paragraph (3), inserted "other than diesel-powered generation" following "generation purposes," substituted "pledges" for "is a pledge of" following "a municipality which," inserted "and which is" following "capital improvement," substituted "the revenue of the revenue-producing capital improvement" for "unpledged revenue of the public facility for which the obligations are issued" at the end of the subparagraph; and added subparagraph (D) in paragraph (3).

Sec. 44.85.420. Short title. This chapter may be cited as the Alaska Municipal Bond Bank Authority Act or the Alaska Municipal Bond Bank Act. In transactions involving general obligation bonds of municipalities, the Alaska Municipal Bond Bank Authority created by this chapter may be referred to as the Alaska Municipal Bond Bank with the same legal effect as if the reference were to Alaska Municipal Bond Bank Authority. (§ 1 ch 79 SLA 1975; am § 3 ch 48 SLA 1978)

Effect of amendment. — The 1978 amendment added "or the Alaska Municipal Bond Bank Act" to the end of the first sentence and added the second sentence.

Chapter 88. Alaska Industrial Development Authority.

Article
1. Creation and Organization (§§ 44.88.010 — 44.88.050)
2. Purpose and Powers (§§ 44.88.070 — 44.88.080)
3. Financial Provisions (§§ 44.88.090 — 44.88.158)
4. General Provisions (§§ 44.88.160 — 44.88.220)

Article 1. Creation and Organization.

Section
10. Legislative finding and policy
20. Creation of authority
30. Membership of authority
40. Chairman and vice-chairman
50. Meetings, compensation, officers and employees

Sec. 44.88.010. Legislative finding and policy. (a) The legislature finds, determines and declares that

(1) there exist areas of the state in which seasonal and nonseasonal unemployment exists;

(2) this unemployment is a serious menace to the health, safety and general welfare, not only to the people in those areas, but also to the people of the entire state;

(3) the state lacks the basic manufacturing, industrial, small business, tourism, mining, and commercial fishing enterprises and other facilities referred to in AS 44.88.010(a)(5) necessary to permit adequate development of its natural resources and the balanced growth of its economy;

(4) the establishment of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises in Alaska, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, is essential to the development of the natural resources and the long-term economic growth of the state, and will directly and indirectly alleviate unemployment in the state;

(5) the achievement of the goal of full employment, and of establishment and continuing operation and development of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises in the state, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, will be accelerated and facilitated by the creation of an instrumentality of the state with powers to incur debt and to make and insure loans to finance, and to assist private lenders to make loans to finance, the establishment, operation, and development of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises, including facilities for air and water transportation, facilities for pollution control and waste disposal, facilities for the local furnishing of gas, facilities for water, and facilities for industrial parks, for private operation;

(6) it is in the public interest to promote the prosperity and general welfare of all citizens of the state by stimulating commercial and industrial growth and expansion by encouraging an increase of private investment by banks, investment houses, insurance companies, and other financial institutions, including pension and retirement funds, to help satisfy the need for economic expansion;

(7) it is in the state's interest to import private capital to create new economic activity which would not otherwise take place in the state.

(b) It is declared to be the policy of the state, in the interests of promoting the health, security and general welfare of all the people of the state, and a public purpose, to increase job opportunities and otherwise to encourage the economic growth of the state, including the development of its natural resources, through the establishment of manufacturing, industrial, small business, tourism, mining, and com-

44.88.010(a)(5) by creating the public corporation with power, duties and functions as provided in this chapter. (§ 1 ch 64 SLA 1967; am § 1 ch 64 SLA 1977; am §§ 44 — 48 ch 106 SLA 1980)

Effect of amendments. — The 1977 amendment inserted the language beginning "including facilities for air and water transportation" and ending "furnishing of electric energy or gas" in paragraph (4) and in two places in paragraph (5).

The 1980 amendment deleted "and" following "manufacturing" near the beginning of paragraph (3) of subsection (a), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of paragraph (3) of subsection (a), inserted "and other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the middle of paragraph (3) of subsection (a), deleted "and" preceding "manufacturing" near the beginning of paragraph (4) of subsection (a), substituted "small business, tourism, mining, and commercial fishing enterprises" for "plants" preceding "in Alaska" near the beginning of paragraph (4) of subsection (a), inserted "facilities for" following "transportation" near the middle of paragraph (4) of subsection (a), substituted "facilities" for "and" following "waste disposal" near the middle of paragraph (4) of subsection (a), deleted "electric energy or" following "local furnishing of" near the middle of paragraph (4) of subsection (a), inserted "facilities for water, and facilities for industrial parks" preceding "is essential to" near the middle of paragraph (4) of subsection (a); rewrote paragraph (5) of subsection (a); added paragraphs (6) and (7) of subsection (a); deleted "and" preceding "industrial" near the middle of subsection (b), inserted "small business, tourism, mining, and commercial fishing" preceding "enterprises" near the middle of subsection (b), and inserted "and the other facilities referred to in AS 44.88.010(a)(5)" following "enterprises" near the end of subsection (b).

Former state development corporation law construed. — See DeArmond v. Alaska State Dev. Corp., Sup. Ct. Op. No. 116 (File No. 285), 376 P.2d 717 (1962); Walker v. Alaska State Mtg. Ass'n, Sup. Ct. Op. No. 353 (File No. 669), 416 P.2d 245 (1966); City of Nome v. Block, No. II, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Sec. 44.88.020. Creation of authority. There is created the Alaska Industrial Development Authority. The authority is a public corporation of the state and a body corporate and politic constituting a public subdivision within the Department of Commerce and Economic Development, but with separate and independent legal existence. (§ 1 ch 64 SLA 1967; am § 104 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Economic Development" in the second sentence.

Editor's note. — Section 42, ch. 106, SLA 1980 provides: "On the effective date of this section the Alaska State Development Corporation (AS 44.86.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On the effective date of this section the Small Business Development Corporation (AS 44.87.020) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). On the effective date of this section the Alaska Toll Bridge Authority (AS 44.84.010) shall transfer its assets and liabilities to the Alaska Industrial Development Authority (AS 44.88.020). The Alaska Industrial Development Authority is responsible for the management of the assets and liabilities transferred to it under this section."

Sec. 44.88.030. Membership of authority. (a) The membership of the authority consists of

(1) the commissioner of revenue and the commissioner of commerce and economic development;

(2) one other person appointed by the governor who serves as the head of a principal department of the executive branch; and

(3) two public members appointed by the governor.

(b) If a member described in (a)(1) or (a)(2) of this section is unable to attend a meeting of the authority, he may by an instrument in writing filed with the authority, designate his deputy or assistant to act in his place as a member at the meeting. For all purposes of this chapter, the designee is a member of the authority at the meeting.

(c) Members of the authority described in (a)(2) and (a)(3) of this section serve two-year terms. However, the initial appointment of one member described in (a)(3) of this section shall be for a one-year term.

(d) If a vacancy occurs in the membership of the authority, the governor shall immediately appoint a member for the unexpired portion of the term

(e) [Effective on the effective date of the amendment to the Constitution proposed in 1980 Legislative Resolve No. 43] The appointment or reappointment of a member of the authority under (a)(2) or (a)(3) of this section is subject to confirmation by a majority vote of the members of the legislature in joint session. If the legislature fails to confirm the appointment of the head of a principal department of the executive branch as a member, the governor shall appoint the head of another principal department of the executive branch to serve as a member subject to confirmation under this subsection. A member appointed to fill a vacancy under (d) of this section is subject to confirmation under this subsection. (§ 1 ch 64 SLA 1967; am § 7 ch 207 SLA 1975; am § 2 ch 64 SLA 1977; am §§ 49, 50 ch 106 SLA 1980)

Effect of amendments. — The 1977 amendment added the third sentence of subsection (b) as it existed prior to the 1980 amendment.

Section 49, ch. 106, SLA 1980, rewrote the section. Section 50, ch. 106, SLA 1980, effective on the effective date of an amendment to the Alaska Constitution which provides for confirmation by the legislature of appointments as provided in §§ 14 and 50 of ch. 106, added subsection (e). The amendment to the Constitution mentioned above is proposed in 1980 Legislative Resolve No. 43 to be submitted to the voters at the 1980 general election.

Sec. 44.88.040. Chairman and vice-chairman. The members of the authority shall elect a chairman from among themselves. A vice-chairman may be elected by the authority from among its other members. The vice-chairman presides over all meetings in the absence of the chairman and has other duties which the authority may direct. (§ 1 ch 64 SLA 1967; am § 105 ch 218 SLA 1976; am § 51 ch 106 SLA 1980)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of economic development"

in two places in this section as it existed prior to the 1980 amendment.

The 1980 amendment rewrote the section.

Sec. 44.88.050. Meetings, compensation, officers and employees. (a) A majority of the members of the authority constitutes a quorum for the transaction of business or the exercise of a power or function at a meeting of the authority. In case of a tie vote on a motion or resolution pending before the authority the motion or resolution shall be presented to the governor and if approved by him, is considered adopted by the authority.

(b) The public members of the authority receive $100 compensation for each day spent on official business of the authority and may be reimbursed by the authority for actual and necessary expenses at the same rate paid to members of state boards under AS 39.20.180.

(c) The authority may appoint persons as officers it considers advisable, including an executive director, and may employ professional advisors, counsel, technical experts, agents, and other employees it considers advisable. The executive director and employees of the authority are in the exempt service under AS 39.25. (§ 1 ch 64 SLA 1967; am §§ 52, 53 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment rewrote subsection (b), and in subsection (c), deleted "or executive vice-president" following "executive director" in the first sentence and added the second sentence.

Article 2. Purpose and Powers.

Section

70. Purpose of the authority
80. Powers of the authority

Sec. 44.88.070. Purpose of the authority. The purpose of the authority is to promote, develop and advance the general prosperity and economic welfare of the people of Alaska, to relieve problems of unemployment and to create additional employment by providing various means of financing and means of facilitating the financing of industrial, manufacturing, small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state. (§ 1 ch 64 SLA 1967; am § 54 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "various" for "a" preceding "means of financing" near the middle of the section, inserted "means of facilitating the financing of" near the middle of the section, and substituted "small business, tourism, mining, and commercial fishing enterprises and the other facilities referred to in AS 44.88.010(a)(5) within the state" for "plant construction, conversion or expansion within the state, including the acquisition of real property, for lease or sale to business enterprises for industrial or manufacturing purposes" at the end of the section.

Sec. 44.88.080. Powers of the authority. In furtherance of its corporate purposes, the authority has the following powers in addition to its other powers:

(1) to sue and be sued;

(2) to have a seal and alter it at pleasure;

(3) to make and alter bylaws for its organization and internal management;

(4) to adopt regulations governing the exercise of its corporate powers;

(5) to acquire an interest in a project as necessary or appropriate to provide financing for the project, whether by purchase, gift or lease;

(6) to lease to others a project acquired by it for the rentals and upon the terms and conditions the authority may consider advisable, including, without limitation, provisions for options to purchase or renew;

(7) to issue bonds, in accordance with AS 44.88.090, to pay the cost of a project and to secure payment of the bonds as provided in this chapter;

(8) to sell, by installment sale or otherwise, exchange, donate, convey or encumber in any manner by mortgage or by creation of any other security interest, real or personal proeprty owned by it, or in which it has an interest, including a project, when, in the judgment of the authority, the action is in furtherance of its corporate purposes;

(9) to accept gifts, grants or loans from, and enter into contracts or other transactions regarding them, with a federal agency or an agency or instrumentality of the state, a municipality, private organization or other source;

(10) to deposit or invest its funds, subject to agreeements with bondholders;

(11) to enter into contracts or agreements with respect to the exercise of any of its powers, and do all things necessary or convenient to carry out its corporate purposes and exercise the powers granted in this chapter;

(12) to purchase or insure loans to finance the costs of manufacturing, industrial, small business, tourism, mining, and commercial fishing enterprise projects;

(13) to enter into loan agreements with respect to one or more projects upon the terms and conditions the authority considers advisable;

(14) to acquire, manage, and operate a project when it becomes necessary or desirable to do so to safeguard the authority from losses;

(15) to assist private lenders to make loans to finance the costs of projects through loan commitments, short-term financing, or otherwise;

(16) to accept gifts, grants, or loans from a federal agency, from an agency or instrumentality of the state or of a municipality, or from any other source;

(17) to enter into contracts or other transactions with a federal agency, with an agency or instrumentality of the state or of a municipality, or with a private organization or other entity consistent with the exercise of any power under this chapter;

(18) to facilitate the expansion of a secondary market for the resale of federally or commercially insured loans held by commercial banks in Alaska. (§ 1 ch 64 SLA 1967; am §§ 55 — 59 ch 106 SLA 1980)

Effect of amendment. The 1980 amendment substituted "adopt" for "make rules and" at the beginning of paragraph (4), rewrote paragraph (5), inserted "in accordance with AS 44.88.090" following "to issue bonds" near the beginning of paragraph (7), deleted "acquiring by construction, purchase or lease or improving and equipping" following "the cost of" near the middle of paragraph (7), inserted "by installment sale or otherwise" following "to sell" at the beginning of paragraph (8), inserted "including a project" following "has an interest" near the middle of paragraph (8), and added paragraphs (12) through (18).

Article 3. Financial Provisions.

Section
90. Bonds of the authority
100. Trust indentures and trust agreements
105. Capital reserve funds and capital reserve fund requirement
110. Validity of pledge
120. Nonliability on bonds
130. Pledge of the state
140. Exemption from taxation
150. Bonds legal investments for fiduciaries
155. Enterprise development fund
157. Loan insurance and loan insurance account
158. Small business, tourism, mining, and commercial fishing enterprises loan account

Sec. 44.88.090. Bonds of the authority. (a) Subject to (g) of this section, the authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable, (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds, (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds, or (3) from its income and receipts or other assets generally, or a designated part or parts of them.

(b) Bonds shall be authorized by resolution of the authority, and be dated and shall mature as the resolution may provide, except that no bond may mature more than 40 years from the date of its issue. Bonds shall bear interest at the rate or rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the place or places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine.

(e) Before the issuance of any bonds, the authority shall make provision by lease or other agreement regarding the project or projects being financed by the issue of the bonds for rentals or other considerations at least sufficient, in the judgment of the authority, to pay the principal of and interest on the bonds as they become due and to create and maintain the reserves therefor as the authority considers necessary or desirable and to meet all obligations in connection with the lease or other agreement and all costs necessary to service the bonds unless the lease or agreement provides that the obligations are to be met or costs are to be paid by a party other than the authority.

(f) The superior court shall have jurisdiction to hear and determine suits, actions or proceedings relating to the authority, including suits, actions or proceedings brought to foreclose or otherwise enforce a mortgage, pledge, assignment or security interest or brought by or for the benefit or security of a holder of its bonds or by a trustee for or other representative of the holders.

(g) The authority may not

(1) issue bonds other than refunding bonds during any 12-month period beginning after June 30, 1981, in an amount that exceeds the amount approved by law for that 12-month period; or

(2) issue revenue bonds other than refunding bonds for a project under this chapter in an amount greater than $50,000,000 during any 12-month period beginning after June 30, 1981, unless the issuance is included separately in the estimates required in the report of the authority under AS 44.88.210(b) and unless the legislature, by law, approves the issuance.

(h) The authority may combine, for the purposes of a single offering, bonds financing more than one project under this chapter. (§ 1 ch 64 SLA 1967; am §§ 60, 61 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "Subject to (g) of this section, the" for "The" at the beginning of subsection (a), deleted "therefor" following "may issue bonds" near the beginning of subsection (a), and added subsections (g) and (h).

Sec. 44.88.100. Trust indentures and trust agreements. In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee (hereinafter in this section referred to as "trust agreement") by means of which the authority may:

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rents or other consideration for, and the other terms to be incorporated in a lease or contract of sale of a project;

(C) the assignment by the authority of its rights in the lease or contract of sale of a project or in a mortgage or other security interest created with respect to a project to a trustee for the benefit of bondholders;

(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance and all other rights of the authority or of the bondholders, under a lease, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by mandamus or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage or assign money, leases, agreements, property or other assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds. (§ 1 ch 64 SLA 1967)

Sec. 44.88.105. Capital reserve funds and capital reserve fund requirement. (a) For the purpose of securing one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and other money which may be made available to the authority from other sources for the purposes of the capital reserve funds. A capital reserve fund may be established only if the authority determines that the establishment of the fund would enhance the marketability of the bonds. Money in a capital reserve fund, except as provided in this section, may be used as required only for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds; (2) the purchase or redemption of the bonds; or (3) the payment of a redemption premium required to be paid when the bonds are redeemed before maturity. However, money in a capital reserve fund may not be withdrawn if the withdrawal would reduce the amount in the capital reserve fund to less than the capital reserve requirement, except for the purpose of making payment, when due, of principal, interest, redemption premiums on the bonds, and sinking fund payments when other money of the authority is not available for the payments. Income or interest earned by, or increment to, a capital reserve fund, from the investment of all or part of the fund, may be transferred by the authority to other funds or accounts of the authority if the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(b) If the authority decides to issue bonds secured by a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than the capital reserve fund requirement, unless the authority, at the time of issuance of the bonds, deposits in the capital reserve fund from the proceeds of the bonds to be issued or from other sources, an amount which, together with the amount then in the fund, is not less than the capital reserve fund requirement.

(c) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the fund is invested shall be valued by a reasonable method established by the authority by resolution. Valuation shall include the amount of interest earned or accrued as of the date of the valuation.

(d) The chairman of the authority shall annually, no later than January 2, certify in writing to the governor and the legislature the amount, if any, required to restore a capital reserve fund to the capital reserve fund requirement. The legislature may appropriate to the authority the amount certified by the chairman of the authority. The authority shall deposit the amounts appropriated under this subsection during a fiscal year in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(e) In this section, "capital reserve fund requirement" means the amount required to be on deposit in the capital reserve fund as of the date of computation as determined by resolution of the authority. (§ 62 ch 106 SLA 1980)

Sec. 44.88.110. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 64 SLA 1967)

Sec. 44.88.120. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds are liable personally on the bonds or are subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state (except the authority) to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 64 SLA 1967)

Sec. 44.88.130. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project, that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the authority with the holders or federal agency, or in any way impair the rights and remedies of the holders until the bonds, together with the interest on them with interest on unpaid installments of interest, and all costs and expenses in connection with an action or proceeding by or on behalf of the holders, are fully met and discharged. The authority is authorized to include this pledge and agreement of the state, insofar as it refers to holders of bonds of the authority, in a contract with the holders, and insofar as it relates to a federal agency, in a contract with the federal agency. (§ 1 ch 64 SLA 1967)

Sec. 44.88.140. Exemption from taxation. (a) The real and personal property of the authority and its assets, income and receipts are declared to be the property of a political subdivision of the state and, together with any project financed under this chapter and a leasehold interest created in a project applicant or other person under this chapter, devoted to an essential public and governmental function and purpose, and the property, assets, income, receipts, project and leasehold interests shall be exempt from all taxes and special assessments of the state or a political subdivision of the state, including, without limitation, all boroughs, cities, municipalities, school districts, public utility districts and other taxing units. All bonds of the authority are declared to be issued by a political subdivision of the state and for an essential public and governmental purpose and to be a public instrumentality and the bonds, and the interest on them, the income from them and the transfer of the bonds, and all assets, income and receipts pledged to pay or secure the payment of the bonds, or interest on them, shall at all times be exempt from taxation by or under the authority of the state, except for inheritance and estate taxes and taxes on transfers by or in contemplation of death. Nothing in this section affects or limits an exemption from license fees, property taxes, or excise, income or any other taxes, provided under any other law, nor does it create a tax exemption with respect to the interest of any business enterprise or other person, other than the authority, in any property, assets, income, receipts, project or lease whether or not financed under this chapter.

(b) The authority may enter into agreements with a proposed project applicant or project applicant providing for payments, computed on a formula basis or otherwise, in lieu of taxes, which the authority may consider appropriate. The agreement may provide that the payments be made to the political subdivision of the state in which a project is or is to be located or to any other taxing unit of the state including, without limitation, a borough, city, municipality, school district or public utility district, the area of which is coterminous in whole or in part with that of the political subdivision.

(c) For the purposes of AS 14.17 relating to the computation of the required local effort by a district as defined in AS 14.17.250(3), all property exempted from taxation by this chapter shall be considered taxable real and personal property. (§ 1 ch 64 SLA 1967; am § 3 ch 64 SLA 1977; am §§ 63, 64 ch 106 SLA 1980)

Effect of amendments. — The 1977 amendment in the third sentence of subsection (a), substituted "affects or limits" for "shall affect or limit" and added the language beginning "nor does it create a tax exemption" to the end.

The 1980 amendment substituted "applicant" for "occupant" following "project" near the middle of the first sentence in subsection (a) and twice near the beginning of subsection (b).

Cited in City of Nome v. Block No. 11, Lots 5, 6 & 7, Sup. Ct. Op. No. 839 (File No. 1652), 502 P.2d 124 (1972).

Sec. 44.88.150. Bonds legal investments for fiduciaries. The bonds of the authority are securities in which all public officers and bodies of the state and all municipalities and municipal subdivisions, all insurance companies and associations and other persons carrying on an insurance business, all banks, bankers, trust companies, savings banks, savings associations, including savings and loan associations and building and loan associations, investment companies and other persons carrying on a banking business, all administrators, guardians, executors, trustees and other fiduciaries, and all other persons whatsoever who are now or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest funds including capital in their control or belonging to them. Notwithstanding any other provisions of law, the bonds of the authority are also securities which may be deposited with and may be received by all public officers and bodies of this state and all municipalities and municipal subdivisions for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized. (§ 1 ch 64 SLA 1967)

Sec. 44.88.155. Enterprise development fund. (a) There is established in the authority the enterprise development fund. The en-

terprise development fund is a trust fund for the uses and purposes of this chapter. Money may be paid into and out of the enterprise development fund only as provided in this chapter. The enterprise development fund may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the enterprise development fund, and other money deposited in it by the authority.

(b) The authority shall establish within the enterprise development fund a loan insurance account, a small business, tourism, mining, and commercial fishing enterprises loan account and other accounts it considers appropriate. Amounts in the enterprise development fund including, without limitation, repayments of loan principal and interest, may be pledged to the payment of bonds of the authority and shall be held and invested by the authority in investments authorized under AS 37.10.070(a) or as may be authorized in agreements with bondholders respecting amounts in the loan insurance account, the small business, tourism, mining, and commercial fishing enterprises loan account, and other accounts within the enterprise development fund.

(c) Repayments of loan principal and interest may be deposited in the accounts of the enterprise development fund. The amount in the enterprise development fund at the end of each fiscal year beginning after June 30, 1981, including, but not limited to, repayments of loan principal and interest, which, in the opinion of the authority, is in excess of the amount required to be held in the enterprise development fund under agreements with bondholders and the amount necessary for loan commitments, lapses into the general fund. (§ 65 ch 106 SLA 1980)

Sec. 44.88.157. Loan insurance and loan insurance account. (a) The purpose of the loan insurance account is to provide insurance of mortgage loans and other loans made or purchased by the authority, or made by others and approved for insurance by the authority, for a project. The authority may enter into agreements as to the use of money in the loan insurance account and may pledge, assign, or grant interests in the loan insurance account as provided in this section. The authority may adopt regulations and enter into agreements with respect to the exercise of any power or approval relating to the loan insurance account under this section, including, without limitation, agreements as to the use of money in the loan insurance account, agreements with respect to the terms and conditions upon which payments from the loan insurance account will be made with respect to a loan insured under this section, agreements as to separate subaccounts in the loan insurance account for different categories of loans or as to loans made by the authority or any other person, and agreements regarding the payment of and security for bonds issued by the authority. An agreement, the rights of the authority under an agreement, or payments received or to be received under an agreement may be pledged or assigned by the authority for the benefit of the holders of bonds issued by the authority.

(b) The authority may, upon application of a borrower or proposed borrower, insure and make advance commitments to insure loan repayments required under the terms of a loan made by it or by another lender with respect to a project, upon the terms and conditions the authority prescribes. To be eligible for insurance under this chapter, a loan for a project

(1) shall be held by the authority or by a lender approved by the authority as responsible and able to service the loan;

(2) may not exceed $10,000,000 for a project, or 90 percent of the cost of the project or 90 percent of the appraised value of the project, whichever is less;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date of issuance of the insurance, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower; and

(5) shall be in the form and contain the terms with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, additional and secondary liens, and other matters that the authority prescribes.

(c) In addition to other fees which the authority may charge on loans, the authority may collect or cause to be collected on loans insured under this section, either a loan insurance commitment fee or a loan insurance premium or both. Loan insurance fees and loan insurance premiums are not required to be uniform among the various loans insured. Loan insurance commitment fees and loan insurance premiums shall be deposited in the insurance account by the loan servicer, trustee, or agent designated by the authority to receive them.

(d) If, at any time after receipt by the authority of a payment from the loan insurance account with respect to a loan, the authority recovers an amount on the loan or portion of it from a source other than the loan insurance account, the authority shall apply the amount recovered in the following order: first, to repay the general fund of the state for appropriations made under (g) of this section, and second, to repay the loan insurance account.

(e) Loans may be insured only when the amount either in the loan insurance account insuring the loans or a subaccount in the loan insurance account insuring the loans, as a percentage of the sum of the loans to be insured and all unpaid principal on loans insured by the loan insurance account or the subaccount, equals or exceeds the fund requirement. The fund requirement is calculated as a percentage which the authority determines is actuarially sound for operation of

(f) When the authority determines what is actuarially sound with respect to the operation of the loan insurance account or a subaccount in the loan insurance account, it shall consider means of providing sufficient revenue for the operation of the account or subaccount, without regard to amounts which may have been or may, after the date of determination of actuarial soundness, be appropriated under (g) of this section. The authority shall also consider factors including, without limitation, estimates of future defaults and losses of loans insured under this section based on actual default and loss experience on those loans or on similar loans in the state or elsewhere, estimates of recoveries on defaulted or foreclosed loans based on actual default and foreclosure experience on those loans or similar loans in the state or elsewhere, the terms and conditions of the loans insured under this section, estimates of earnings and income of amounts on deposit in the loan insurance account, and other appropriate factors.

(g) On December 1 of each year the authority shall determine the amount on deposit in the loan insurance account and in each subaccount in the loan insurance account. If the amount in the loan insurance account or the amount in a subaccount in the loan insurance account is less than the fund requirement for the account or for the subaccount, the authority shall transfer the amount necessary to restore the loan insurance account or the subaccount to the fund requirement. The transfer shall be made from available money which is not encumbered or restricted for other use under the terms of contracts with bondholders or others. If sufficient money is not available for transfer, the chairman of the authority shall, no later than January 2 of the following year, certify in writing to the governor and to the legislature the amount, if any, required to restore the account or subaccount to the fund requirement. The legislature may appropriate the amount certified and the authority shall deposit in the account or proper subaccount the amounts appropriated by the legislature for the purposes of this subsection during the then current state fiscal year. Nothing in this subsection creates a debt or liability of the state.

(h) A contract of insurance executed by the authority under this section is conclusive evidence of eligibility for the insurance. The validity of a contract of insurance executed by the authority or of an advance commitment to insure is incontestable from the date of the execution of the contract or commitment, except for fraud or misrepresentation on the part of the insured or, as to commitments to insure, noncompliance with the terms of the advance commitment or authority regulations in force at the time of issuance of the advance commitment.

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount. (§ 65 ch 106 SLA 1980)

Sec. 44.88.158. Small business, tourism, mining, and commercial fishing enterprises loan account. (a) The authority may use the assets of the small business, tourism, mining, and commercial fishing enterprises loan account to purchase loans made by others to small business enterprises, tourism enterprises, mining enterprises, and commercial fishing enterprises to pay the costs of projects, as defined in AS 44.88.220, which have been or which the authority anticipates will be financed with the proceeds of bonds.

(b) The interest rate on a loan purchased with money in the small business, tourism, mining, and commercial fishing enterprises loan account must equal the interest rate which the authority estimates would be payable on bonds issued by the authority to provide money to make the loan.

(c) A loan purchased with money in the small business, tourism, mining, and commercial fishing enterprises loan account

(1) may not exceed

(A) $6,000,000 if the loan is made to a tourism enterprise;

(B) $1,000,000 if the loan is made to a mining enterprise or to a small business enterprise that is not a tourism enterprise or a commercial fishing enterprise; or

(C) $500,000 for each individual commercial fisherman in the commercial fishing enterprise if the loan is made to a commercial fishing enterprise;

(2) may not exceed 75 percent of the cost of the project or 75 percent of the appraised value of the project, whichever is less, unless the amount of the loan in excess of those limits is federally insured or guaranteed or is insured by a qualified mortgage insurance company;

(3) may not be made for a term longer than three-quarters of the authority's estimate of the life of the project or 25 years from the date the loan is made, whichever is earlier;

(4) shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower;

(5) shall be in the form and contain the terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, default reserves, delinquency charges, default remedies, acceleration of maturity, secondary liens and other matters the authority prescribes; and

(6) shall be secured as to repayment by a mortgage or other security instrument in the manner the authority determines is feasible to assure timely repayment under a loan agreement entered into with the

(d) The authority may adopt regulations for the administration of the small business, tourism, mining, and commercial fishing enterprises loan account which may include, without limitation, provisions for fees and agreements relating to application, loan commitment, servicing, and origination of loans by other lenders.

(e. The authority may enter into agreements as to the use of the money in the small business, tourism, mining, and commercial fishing enterprises loan account, including without limitation, trust or custody arrangements with banks or trust companies. It may also pledge, assign, or grant the agreement, interests under an agreement, or interests in the small business, tourism, mining, and commercial fishing enterprises loan account as may be necessary or appropriate to provide for payment and security for bonds of the authority.

(f) If more than two percent of the total amount of the loans purchased from a financial institution under this section becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than two percent. (§ 65 ch 106 SLA 1980)

Article 4. General Provisions.

Section
160. Findings of the authority
170. Purchase of project and leases
180. Conflicts of interest
190. Operation of certain statutes excepted
200. Annual audit
205. Operating budget
210. Reports and publications
220. Definitions

Sec. 44.88.160. Findings of the authority. Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project for which bonds are agreed to be issued by the authority in an amount in excess of $6,000,000, or before approving insurance or a commitment to insure a loan as provided in AS 44.88.157(b) with a principal amount in excess of $6,000,000, there must have been filed with the authority a certified copy of a resolution of the governing body of the political subdivision of the state, if any, in which the project is to be located, consenting to the location (which consent need only refer to the general nature of the project ultimately to be acquired as set out in a request of the proposed project applicant). Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project, the authority must find, on the basis of all information reasonably available to it, that

(1) the project and its development under this chapter will be economically advantageous to the state and the general public welfare and will contribute to the economic growth of the state;

(2) the project applicant is financially responsible;

(3) provision to meet increased demand upon public facilities that might result from the project is reasonably assured;

(4) the project will provide or retain employment reasonably related to the amount of the financing by the authority considering the amount of investment per employee for comparable facilities and other relevant factors; and

(5) the scope of the project is sufficient to provide a reasonable expectation of a benefit to the economy of the state. (§ 1 ch 64 SLA 1967; am § 66 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment divided the former section into two sentences by deleting "and"; in the present first sentence, inserted "as provided in AS 44.88.090(e)" near the beginning, substituted the language beginning "for which bonds are agreed to be issued" and ending "principal amount in excess of $6,000,000" for "as mentioned in AS 44.88.090(e)" near the middle, and substituted "applicant" for "occupant" at the end; and in the second sentence, added "Before entering into a lease or other agreement as provided in AS 44.88.090(e) regarding a project" to the beginning, substituted "applicant" for "occupant" in paragraph (2), deleted "and" from the end of paragraph (2), and added paragraphs (4) and (5).

Sec. 44.88.170. Purchase of project and leases. (a) No provision of this chapter may prevent the inclusion in a lease or other agreement relating to a project of a provision granting the right to purchase the project, or to renew or extend the lease or agreement, upon the terms and conditions which may be provided for in the lease or agreement.

(b) A lease with respect to a project may provide for two or more lessees with the legal relationship between themselves and the authority which the authority may approve, including without limitation, provisions to the effect that the obligations of the lessees under the lease for payment of rental or otherwise between themselves and the authority are several, joint, or joint and several and that the lessees lease the project as tenants-in-common, or otherwise. (§ 1 ch 64 SLA 1967)

Sec. 44.88.180. Conflicts of interest. (a) No member of the authority may vote on a resolution of the authority relating to a lease or contract to be entered into by the authority under this chapter if he is a party to the lease or contract or has a direct ownership or equity interest in a firm, partnership corporation or association which may be a party to the contract or lease. If a person may not vote because of this prohibition, for all purposes regarding action of the authority relating to adoption of the resolution, the position of the persons as a member shall be transferred to the first one of the following state officers who is not then acting as a member and would not be prohibited from voting on the resolution because of the same prohibition: commissioner of administration, attorney general, commissioner of revenue, commissioner of health and welfare, commissioner of labor, commissioner of public works, commissioner of [illegible]

erty is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(7) Deleted;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction or acquisition;

(9) "project applicant" means a business enterprise or enterprises proposing to

(A) use or occupy a project; or

(B) agree to permit others to use or occupy a project;

(10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(12) "small business enterprise" means a business enterprise with annual gross income of $10,000,000 or less;

(13) "tourism enterprise" means a business enterprise which is directly involved in the tourist industry;

(14) "commercial fishing enterprise" means one or more individual commercial fishermen who are residents of the state who jointly apply for and receive a commercial fishing loan from a private financial institution in the state or from a state or federal loan program;

(15) "mining enterprise" means a business enterprise which is directly involved in the mining industry. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980)

Effect of amendments. — The 1977 amendment added the language beginning "any plant or facility used or intended for use" to the end of paragraph (5) and deleted "and the reasonable aggregate project cost of which to be financed by the authority under this chapter will exceed, in the opinion of the authority, $500,000" from the end of paragraph (7).

The 1980 amendment, in paragraph (2), inserted "single proprietorship" and substituted "which is not organized on a nonprofit basis" for "or a single proprietorship"; in paragraph (4), deleted "borough" preceding "assembly" and added "or a unified municipality" to the end; so changed paragraphs (5), (6), and (9) as to make a detailed comparison impracticable; deleted former paragraph (7), which defined "project"; in paragraph (8), substituted "or tangible personal property, and, in connection with real property" for "property" and "the cost of a project includes, without limitation, the cost of financing the project" for "the cost of financing the project, including, without limitation"; in paragraph (11), deleted "real" preceding "property" in two places; and added paragraphs (12)-(15).

Part 9. Miscellaneous Provisions.

Chapter

99. Miscellaneous Provisions (§§ 44.99.001 — 44.99.010)

Chapter 99. Miscellaneous Provisions.

Section

1. Administration of highway safety program
2. Employment of radio stations
3. Qualifications of radio station
4. Prescribing proof of capacity and suitability of station and of service and allotment of radio time
5. Cost of radio service
6. Agreement for an Alaska Maritime Academy
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Sec. 44.99.001. Administration of highway safety program. The governor may contract and do all other things necessary on behalf of this state under the Federal Highway Safety Act of 1966, and may cooperate with federal and state agencies, private and corporate agencies, interested corporations, and individuals, to effectuate the purposes of that Act. The governor is the official in this state having the ultimate responsibility for dealing with the federal government with respect to programs and activities under the Federal Highway Safety Act of 1966. He shall coordinate the activities of state departments, agencies and subdivisions. (§ 1 ch 19 SLA 1967)

Editor's note. — This section derives from AS 44.19.025 and was renumbered by the revisor under AS 01.05.031.

Sec. 44.99.002. Employment of radio stations. The governor may employ one or more radio stations, located south of the Gulf of Alaska and suitable for distribution of news, executive proclamations and inquiries, information concerning the state, general information and other matters suitable for broadcasting which the governor prescribes

SB
406

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

Official Business

SUMMARY SB 406:

Establishes a film and Television Section in the Office of the Commissioner of the Dept. of Commerce and Economic Development, with the purpose of promoting the use of locations in Alaska by the film and T.V. industry. Directs the new section to submit a report and recommendations for review by the 12th Alaska Legislature by April 1, 1982.

Talk to Gov.

ALASKA FILM COMMISSION

Background Information

Submitted to the

ALASKA STATE LEGISLATURE

ALASKA FILM COMMISSION

INFORMATION

Submitted by: Steve R. Smirnoff
3581 Kachemak Circle
Anchorage, Alaska
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SUGGESTED FUNCTIONS AND OBJECTIVES

1. Advise the Governor or appropriate designate on suggested policy relating to the state's development, coordination, and implementation of a program for the purpose of encouraging a viable motion picture and television industry in Alaska. Such program shall embrace all phases of production of motion pictures for theatres, film for television, and commercials;

2. Assist in identifying opportunities for more activities related to this industry for the state to actively pursue;

3. Recommend both long-range and short-term programs that will result in specific economic gain to the state and its citizens;

4. To assist Alaskan motion picture, multi-media, television and related industries in securing contacts and coordinating efforts with counter-parts in the lower 48, and to encourage the use of these mediums of communication within the State of Alaska whenever appropriate;

5. Assist in educating local, state, and private sectors regarding the desireable benefits and rewards that can result from increased development of the motion picture industry;

6. Propose an appropriate budget and subsequent allocation of said funds according to categories and propose changes where required;

7. Provide an annual review of goals, projects and accomplishments along with a detaild program for subsequent calendar/fiscal year;

8. Maintain an in-house information library dealing with the state's vast geographic location sites, climatalogical conditions, and other appropriate data to include a video-taped site sequences, still photographs, slides, and community profiles;

9. Maintain an active liaison with the motion picture industries on a worldwide basis with an emphasis on promoting Alaska as a destination point for on-location production;

and to perform any and all other tasks required to develop Alaska's image as a desirable state in which to produce motion picture and television programs.

THE NATIONAL CENTER FOR SURVEY RESEARCH, INC.
7046 HOLLYWOOD BOULEVARD
LOS ANGELES, CALIFORNIA 90028
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Attracting the Film Industry to Washington

A Report on A Survey of Key Decision-Makers' Attitudes in Determining Locations for Films And the Image of Washington In Their Minds

Conducted for

The State of Washington

by

The National Center for Survey Research, Inc.

August 1979

Method

To obtain this information, 50 film/TV industry executives were interviewed by appointment by specially-trained executive interviewers. The interviews were conducted in late 1978 through early 1979, an excellent time to obtain the important descision-makers for on-location shooting. Each interview took 45 minutes to 1 hour, using a questionnaire developed by NCSR senior staff in consultation with each of the participating states.

The survey was designed to include 50 executives who had participated in the decision on where to shoot a feature film or a television production that was shot on location outside Los Angeles or New York City within the past 3 years. These individuals were selected at random from a master list of over 100 individuals representing both feature film and television and both studios as well as independent productions. Each state had the opportunity to review the list of organizations represented and to suggest additional ones, as desired.

Among the 50 executives interviewed from this list, 15 were associated with feature films, 17 with television and 18 with both, equally, and they represented the following studios and production companies:

ABC Circle Films
American International Films
Bob Banner Associates, Inc.
Dave Bell Associates, Inc.
CBS
Cinema Features
Columbia Pictures, Inc.
Disney Productions
EMI
Barry Enright Productions
Filmways, Inc.
Charles Fries Productions
David Gerber Productions
Green & Epstein
Denny Harris, Inc.
Jerome Helman Films, Inc.
Alan Landsburg Productions
George Litto Productions
Lobell Productions
Lorimar Productions
Marble Arch Productions
Metro-Goldwyn-Mayer
Orion Pictures
Paramount Pictures Corporation
Martin Ransohoff Productions, Inc.
Spelling-Goldberg Productions
Stonehenge Productions
Time-Life Productions
Twentieth Century-Fox Film Corporation
United Artists
Universal City Studios, Inc.
Viacom Productions
Warner Brothers

Summary of the Major Findings

1. The image of and interest in your state are discussed in detail in the special color-keyed section of this report.

2. There is a definite trend toward an increase in on-location shooting, both for feature films as well as television productions.

Decision makers for on-location shooting definitely see an upward trend in the amount of shooting over the next 2 or 3 years. Each state participating in this survey was mentioned at least once as being thought of for productions on the present agenda, so the time is opportune for the states to take full advantage of this survey and to prepare themselves for this increase in shooting on location.

3. There are usually 2 to 3 key decision-makers among those scouting for locations, although the titles can sometimes be confusing.

The powers behind the decisions on shooting locations, regardless of the numbers and types who seem to be involved scouting, are the Director and/or the Producer and the Production Manager, and they share fairly equally in the final decision.

The Production Manager is sometimes known by a myriad of titles and is most often found in a major studio or a large independent production company and is usually the most important contact between these companies and a film commission. In some cases, the important link between these larger organizations and a film commission would be, more specifically, a Location Manager. Some of these decision-makers have years of experience in scouting and choosing locations and their opinions are sought out and relied upon heavily. It is important for a film commission to identify the decision-makers through conversations with members of a scouting party, not only because their opinions carry so much weight, but because much can be learned from them.

4. The existence of a film commission is essential for a state to be considered seriously for on-location shooting.

The presence of a film commission and its reputation for having knowledge, experience and willingness to handle the needs of a production company on location is of vital importance. It was crystal clear that a state thought to have a good film commission and to have the governor's support has a distinct advantage that can mean its being chosen over another state as a shooting location. Therefore, it would behoove each state and each film commission participating in this survey to note carefully what the decision-makers have said about how they look for and decide upon locations and what they have said specifically about film commissions. In this way, the states and film commissions can evaluate their own services and then position themselves accordingly.

5. It is not enough just to have a film commission. The commission must interject itself into the community of the key decision-makers.

The most highly involved decision-makers for shooting locations are a tightly-knit group of individuals who talk often and share experiences and make recommendations to each other. They have favorite states they like to go to and seek out these states as much as possible, most often because they have grown to know and like and, above all, respect an individual in the film commission.

A film commission must establish itself within this network and build relationships that will further the state's interests.

6. Information used to decide upon a location for shooting comes from a variety of identifiable sources.

Once the decision-makers are called upon to find and to choose locations based on a story or script, the ensuing search leads these executives to gather information from a variety of sources, each of which carries certain implications for a film commission.

Sources of Information	Implications
A. They most often contact state film commissions, and clearly want a single agency or person to turn to for information and services.	A. The film commission must be easy to reach, be able to understand what constitutes the described "look", and be prepared to respond promptly to requests for photographs and detailed logistical information directed at the specific locations and related services sought.
B. They reflect on their past experiences and on what they have heard from their compatriots in the business of finding locations.	B. States that have been used often will tend to be considered first. Up-and-coming states must try harder through advertising and promotion, by establishing contacts among the decision-makers and by sending a continuing supply of new, useful photographs and information. All contacts between the industry and the film commission and other state or local officials, or private citizens must make the decision-makers feel welcome and confident that their needs can be met. Any shooting experience must go so smoothly and be so pleasant that the decision-makers want to come back.
C. They consult the studio reference files or location department, deciding to proceed further with a state on that basis alone.	C. It is critically important that a film commission insure that its materials in these files position the state to its best advantage. Some states provide a comprehensive, indexed, loose-leaf notebook with colored photographs, lists of important information, services, contacts, and then send out up-to-date or new materials periodically, and this was a key reference work for the decision-makers.

Sources of Information	Implications
D. They refer to published directories and also recall advertising they have seen.	D. A film commission must insure that its coverage in the important directories and periodicals is prominent and is focused toward presenting the most impressive positioning, considering the state's current image, its competition, the important factors in deciding on locations, and the publication itself -- who uses it and how.
E. They scout locations and call upon a film commission to scout with them.	E. A film commission must be prepared to make arrangements for such trips, and accompany the scouting party, fill them in on each sites' pros and cons. Introductions to influential state or local citizens and the use of a state plane for scouting are big pluses.

7. Several key factors stand out as part of the decision-making process.

When scouting locations and deciding between them, the primary consideration, of course, is the site itself -- its authenticity and/or its specific look relative to script requirements -- but there are several important specific considerations, each of which is a function of two vital concerns: potential costs and time involved in shooting. Cost and timing are particularly important to television and independent productions. Briefly, the types of specific considerations that enter into the decision and the implications of each to a film commission are:

Key Factors in the Decision-Making Process	Implications
A. The location itself or locations themselves were the most significant considerations.	A. A film commission must know its state well, all its different and unique looks in order to suggest the right locations for a script and then give alternate locations in order to increase the state's chances of being chosen.

Key Factors in the Decision-Making Process	Implications
B. The presence, attitude and efficiency of a film commission very often makes the difference between a state's being sought out or avoided.	B. A film commission must be known to the film industry and develop a reputation for being available, prompt and honest -- knowing the industry's needs, wanting to help the industry in any way possible and having the capability and authority to deliver.
C. Cooperation of other state and local residents and officials, including unions, is among the most important considerations.	C. A film commission must enlist a cooperative attitude from all local individuals that the industry would be dealing with, and intervene with authority in any troubles or conflicts.
D. Availability of services and logistics are also extremely important, for example: convenience and cost of accommodations, food, services, extras, special properties, technicians, additional union crews, etc.; the proximity of these to a number of locations that could be used in the shooting (i.e., a "good location package"); easy access to airports with regular, timely connections to Los Angeles; the weather.	D. A film commission must inform itself of the specific requirements of the production company and be prepared to provide details about these and to make necessary arrangements for these services or equipment.

8. Overall, the need to control the time and money spent in finding a location and shooting at a location was the common denominator of the survey findings.

Taking an overview and putting all the findings in perspective, the primary and critical concerns are meeting the budget and keeping the schedule requirements of a production.

After California, which came up most with 11 individuals presently considering it, other states with 5 or more considering them were: Colorado, Hawaii, Nevada, New York, Texas, Arizona, Utah, Georgia, New Mexico, Idaho and Oregon. States or areas with 2 or 3 mentions were Kentucky, Ohio, Louisiana, Montana, Alabama, Illinois, Mississippi, New England, Canada/British Columbia and North or South Carolina. States or areas with 1 mention each were Alaska, Florida, Kansas, Massachusetts, New Jersey, Oklahoma, Washington, Arkansas, Tennessee, Virginia or West Virginia and Pennsylvania.

So at the threshold of this report, the findings are that all of the states participating in this survey are in the running for on location shooting, though some are in a better position than others. Each state participating in this research is in an eminent position to make use of the findings and guidelines established in this report in order to enhance its image and reputation among members of the film industry.

III. How Information About Locations is Obtained

We asked the decision-makers, "How do you normally know about or find out about states you might consider as a location for shooting a feature film or TV production?" This is what they said:

	Total #
Film commission/state or local sources	41
Contact film commissions to request photos and information	25
Commissions send brochures/information/ catalogues	12
From film commission	11
Check local organizations	10
Know film commissions personally	4
Check with governor/governor's contact (not specified)	3
Word-of-mouth/ask friends	17
Past experience	16
Studio reference file/location department	16
Scout locations	12
Script/story dictates	10
Advertising/published directories	7

Each source of information has its own set of implications that relate to a state's image and to the work of the film commission, therefore, each will be discussed in turn.

to shoot particular scenes in order to complete the film or television production on time -- must be met.[1] Consequently, the key factors that the decision-makers consider along with the location itself are really outgrowths of these two broader concerns of cost and timing. Overall, the most important specific considerations are:

- -- The location itself -- its authenticity, its specific "look" cannot be found elsewhere.
- -- The film commission -- efficient, authoritative, cooperative, available for information, to arrange things, to scout locations.
- -- Local residents, businessmen, officials -- all members cooperative, good attitude.
- -- A history of few problems with excessive shooting fees, no governmental shooting fees.
- -- A history of few problems with local unions.
- -- Hotel accommodations -- availability, proximity to location and services, cost.
- -- Food -- availability and quality of restaurants/caterers.
- -- Availability of equipment, crews, extras.
- -- Wide variety of locations/good location package available.
- -- Access to Los Angeles -- relatively close to Los Angeles and/or adequate air transportation.
- -- In-state transportation/ground transportation -- available, reliable.

1. It should be kept in mind when dealing with decision-makers for various types of productions that, as a rule, the general concerns of cost and timing are even more important for television or independent productions because the budgets for these are most often less than they are for feature films with studio backing. Also, decision-makers for television productions are especially conscious of the time element, and of any factor that might affect time, since the date a program will be aired is usually fixed.

Although a glance at the above table might indicate the daily trades to be more important than, say, On Location Magazine, such is not the case, because the trades stand out for the frequency of pub ication but are not looked at deeply for on-location in ormation, whereas the On Location Magazine is. Actua ly the two types serve different purposes and both are valuable. The daily trades reach the most people and keep the state name in the foreground, and the special interest magazines are read with more involvement by some of the key decision-makers.

In addition to probing the issue of advertising and promotion generally, with an emphasis on advertising, we also addressed some specific promotional techniques among 31 of the 50 executives interviewed:

	Agree #	Dis-Agree #
Total	31	31
Generally, I find the photographs and descriptions of services sent out by the states t be very useful in the process of deciding on locations	24	7
A state has an advantage if it has a representative in Hollywood or who comes to Hollywood frequently to deal with me personally in discussing the requirements of on-location shooting for specific upcoming projects	18	13
Personal calls from state representatives to check on upcoming projects under consideration are more helpful than they are a nuisance	13	18
A party or reception given here by state representatives is helpful in learning more about a state and the people there you might be dealing with in the future	13	18

Overall, the respondents were satisfied with materials they received from the states, although some, even those who agreed with the statement, took the opportunity here to ask again for more honest weather information, up-to-date information on contacts, facilities and services, and to otherwise reiterate what has been covered under "Important Considerations" and "The Role of the Film Commission".

With respect to the other issues raised, there was no clear-cut opinion one way or the other. Although comments made during the questioning and answers to survey questions led to the following added information:

-- A party or reception in Los Angeles gains substantial importance if the governor is in attendance.

-- Such a visit should be followed by a more work-oriented than a socially-oriented session. One executive requested a slide presentation of locations, services, all the information that was considered important.

-- A state does have an advantage by having a contact in Los Angeles, but especially if that contact is knowledgeable about the state as well as the industry.

-- Follow-up calls are helpful if they serve a purpose and the executives do not feel they are being "hustled". There seems to be a fine line here because in two instances respondents mentioned that the commission had "not pushed very hard" when asked about reasons for considering and not shooting in a state.

THE FILM INDUSTRY - MOTION PICTURE AND TELEVISION PRODUCTION IN HAWAII

In response to the growing importance of the motion picture and television film production industry in Hawaii, Governor George R. Ariyoshi authorized the establishment in July 1978 of a State Film Office in the Department of Planning and Economic Development. The State Legislature also has strongly supported this industry as appropriate for Hawaii. It is non-polluting to Hawaii's physical environment; it brings millions of dollars into Hawaii's economy each year; it provides employment for many of the State's residents; and, as a side effect, it helps promote Hawaii for the tourism industry.

The State Film Office follows developments in the film industry and assists film and television producers, helping them in finding suitable shooting locations and in obtaining permits when needed, helping find local talent and supporting services, and acting generally as liaison between the industry and State and local government agencies. The Film Office also provides leadership in supporting University of Hawaii and Community College classes in dramatics and other film-related subjects, and encourages such activities as national and international sporting events in Hawaii, which provide valuable promotion for the Islands.

Film production activities in the Islands showed a decline in 1980 for the first time since the establishment of the Hawaii Film Office. Two factors were primarily responsible for the downturn: a lengthy strike by the Screen Actors Guild, which brought major production to a virtual halt nationwide for almost for almost three months, and a change in the interpretation of U. S. immigration regulationspertaining to temporary entrance visas for filming crews and supporting casts. The latter had the effect of eliminating production of

foreign TV commercials in Hawaii for some months. Only near the end of 1980 was the difficulty ameliorated and gradual resumption of foreign commercials begun.

There was little that the Film Office could do to help resolve the national SAG strike. But it did take a very active role in talks with the U. S. Immigration and Naturalization service, both in Honolulu and in California, in efforts to show that the tighter interpretation of the regulations, which had been intended to provide more employment for U. S. citizens, was actually having the opposite effect, causing undue hardship for a significant number of persons in filmmaking activities in Hawaii. The Film Office also arranged for representatives of Japanese filming companies to attend meetings with INS officials, including the California meeting.

Despite the strike and the slowdown of foreign TV commercials, the Film Office had a busy year. Among productions filmed in Hawaii during 1980 were a number of television series, including Hart to Hart, Vegas, Eight is Enough, five episodes of Charlie's Angels, and four episodes of The Jeffersons. The Mike Douglas Show also filmed five 90-minute shows during the latter part of the year. Pilots included Universal's Battles featuring William Conrad, and two Spelling-Goldberg productions, Aloha Paradise with Debbie Reynolds, and Waikiki. Major features were Walt Disney Productions' The Last Flight of Noah's Ark, Kirk Douglas' Final Countdown, and a number of foreign features, including one starring Toshiro Mifune. There was also TV coverage of numerous sporting events such as the Hula Bowl, the Hawaiian Open, surfing championship meets, and the Women's High Dive.

The year 1980 was also the first year since the "retirement" of the long-running Hawaii Five-O series. Its star, Jack Lord, was honored by the

1980 Legislature and by Governor Ariyoshi. The Film Office was naturally concerned with helping to find a Hawaii-based replacement series to mitigate the loss of income following the demise of Five-O. A tentative replacement was found in Magnum, which is currently filming in the old Five-O studios. Early industry reaction indicates that the new series will be well received, and that it has the potential to continue as a series for some time.

Magnum got off to a late start because of the SAG strike, but by the end of 1980 had filmed some eight episodes of the 12 planned for the initial phase. The premiere broadccast was aired in December and rated among the top 10 most-watched shows for that week. The Film Office has been working with the series from its inception, in efforts to smooth the transition to the new series, to find a suitable studio location, and in negotiating with the Community College system and other agencies to enable the series to continue use of the Five-O studio facilities until Kapiolani Community College is ready to begin construction in the area.

During 1980, gross budgets for Hawaii productions totaled about $47.5 million. Direct local spending for motion picture and TV production was estimated at about $21.2 million. Taking into account multiplier effects, it is estimated that during 1980, the film industry contributed more than $56 million in spending, generated some 1,550 jobs, and produced an estimated $1.9 million in State and local taxes. While these figures are below 1979 levels because of factors over which the State had little or no control, they yet represent a highly significant contribution to the overall economy of Hawaii.

The following table shows the dramatic increase in activities of the film industry over the past five years. Basic figures are from the 1980 State of Hawaii Data Book and estimates from the Hawaii Film Office.

Film Activity in Hawaii: 1976-1980

Activity	1976	1977	1978	1979	1980	Percent Increase over 1976
No. motion pictures and TV features filmed in Hawaii	31	63	58	54	58	87%
Gross budgets (in $Millions)[1]	26	39	45	78.5	47.5	83%
Feature Films	20	30	36	63.5	36.5	82%
TV Commercials	6	9	9	15	11	83%
Expenditures in Hawaii for feature films (in $Millions)	11	16	22	34.8	21.2	93%
Tax revenues generated ($Millions)	1	1.5	2	3.1	1.9	90%
Employment: Total	918	1265	1610	2543	1551	69%
Direct	622	856	1091	1723	1051	69%
Spending effect on the economy (in $Millions)	29.2	42.4	58.2	91.1	56.1	92%

[1] Includes post-production costs out of the State

At this point, if no unforeseen difficulties develop, the Film Office anticipates an increase of some 20 percent per year in the listed indicators. The best evidence indicates a bright future for entertainment filmmaking, as more and more of the new generation of producers, writers, and directors are "discovering" Hawaii as an ideal location. Also, the trend in recent years has been for the industry to decentralize from California, with sound stages being built in many localities, and film commissions or offices being initiated by many states and even a number of cities. There is now an active national Association of Film Commissioners, and it is an indication of Hawaii's activity that the Manager of the Hawaii Film Office was elected president of the association for the 1980-1981 term.

Several factors account for the more widespread, competitive growth of filming: breakthroughs in technology such as improved films; more portable

cameras with greatly improved lenses; the ability to transfer color film to videotape; and special effects utilizing computer graphics. Pay television and cable TV are on the increase, as are sales of videotape recording/playback equipment. Two-way communication via cable TV has been a subject of experiments in Great Britain, Japan, and elsewhere, and this is a likely area for new directions. Thus there is ample evidence for continued industry growth coming years.

This is not to say that the industry is without problems; two of these have been discussed. There is optimism that the immigration problem can be solved, though recovery may not be immediate. There may well be strikes and other unpredictable difficulties as time goes on. There are still agreements to be reached between the State DPED and other agencies before its Hawaii State Film Office becomes cooperatively a "one-stop" office for approving most permits for location filming. A suitable long-term studio location for the Magnum series is still to be found. Additional facilities in Hawaii are needed for the processing of 35mm motion picture film. Tentative plans are being made for sound studio facilities on Oahu and Maui for the use of visiting producers as well as for local productions. All of these problem and planning areas are under active scrutiny or negotiation by the Hawaii Film Office.

Hawaii Public Television is rapidly becoming a major influence among Public Television stations. It has originated a number of programs which have been broadcast on the PBS network, including the popular "International Kitchen" series whose genial host, Nino Martin, recently filmed a mini-series of two programs in Hong Kong and Singapore. According to Executive Director James Young of Hawaii Public Television, given continuing cooperation of independent producers and the HPT staff, plus a strong fund-raising and grant acquisition program, the continuation and growth of innovative program

production in Hawaii, both for local and network distribution, should increase.

In a recent talk at the tenth anniversary dinner of the Hawaii Film Board, Dr. Young said, "I see increased local production as a means of better serving the needs of Hawaii's people and as a means of informing our Mainland neighbors about our unique Hawaiian culture and history and our scientific and intellectual achievements.... I see no reason why Hawaii can't produce its own programs on a par with the 'big boys' at WGBH in Boston, WNET in New York, and KCET in Los Angeles."

In summary, the motion picture and television industry is one which is eminently suitable for the economy of the State of Hawaii. While the industry has much to offer, the Island State also has a great deal to offer to the industry in terms of scenery, a highly varied population with rich cultural heritages, and many skills. Prospects for growth and expansion appear to be excellent, and innovative technologies are constantly widening the industry's horizons. With incomparable climate and a broad spectrum of scenic beauty, Hawaii is well able to offer the best in competing for the film industry's attention. Thus it is safe to say that the future looks bright for motion pictures and television in the Fiftieth State.

Washington Works To Attract Movies

SEATTLE, Wash.—Hollywood filmmakers and television production companies shooting on-location in California must contend with restrictions, bureaucracy, rising costs and often irate, uncooperative citizens. As a result, more and more productions are straying to other cities and states.

In response to this dissatisfaction the State of Washington is moving to make filming in the state more attractive and economical to the California motion picture and television industry. The Department of Commerce and Economic Development has moved its Motion Picture and Television Bureau from Olympia to new offices in Seattle and has installed Art Kulman as director.

The major function of the Washington State Motion Picture and Television Bureau is to stimulate local and state economies by attracting out-of-state film and television production companies to come to Washington for on-location shooting and to encourage local producers to stay and spend their dollars in-state.

A Warner Brothers location auditor recently estimated that a low budget film production leaves about $25,000 to $30,000 per week on location and high budget features leave $50,000 to $75,000 per week for such things as hiring extras, bit players, food and lodging for the cast and crew, equipment rental, miscellaneous supplies and services.

Additionally, when Washington State locales are featured in motion pictures and television commercials it is an important plus in the encouragement of tourism and travel within the state. The benefits of this kind of exposure to theatre audiences and television viewers cannot be measured in dollars.

The Washington State Motion Picture Bureau was established in 1974 under the Department of Commerce as part of the Travel and Tourism Division. It provides a one-stop comprehensive information and location coordination service for filmmakers and TV producers. Among the services offered are location scouting, coordination of in-state transportation for visiting production personnel prior to shooting; liaison between the production company and local businesses, government agencies and labor unions; logistical support and coordination; and assistance with press coverage and communications.

The Motion Picture and Television Bureau also publishes a Producers Location Directory, profiles on the cities and towns throughout the state, and maintains a photo library of some 5,000 pictures of places and things of interest to filmmakers.

Unlike many states, permits or fees for filming are not required by Washington State cities, towns or rural areas. While this is a boon to filmmakers, it does represent a problem to the Motion Picture Bureau in their attempt to document the magnitude of the film and television industry in Washington and its impact on the economy of the state. The Bureau's budgets for trade magazine and direct mail advertising directed at Hollywood, New York, and Chicago film and TV producers to lure them to Washington is related to the filming activity of these people and their expenditures for goods and services while on-location in Washington.

"We need better documentation. We need to know about those out-of-state film and TV production companies who come to Washington but have no need to contact our Bureau for assistance unless they require specific help," Kulman pointed out.

The Washington State Motion Picture and Television Bureau asks that local companies, agencies and production people help in keeping them advised of activity by out of state producers primarily in the areas of television commercials, industrial films and documentaries.

"We generally are aware far in advance of when major features are being considered or are about to go into production on location in the state. These projects require a lot of help from the Bureau and we are attempting to be a shining example of what real cooperation can mean to cost conscious producers," said Kulman.

The Washington State Motion Picture and Television Bureau is located at 312 First Avenue North in Seattle. Their telephone number is (206) 464-7148.

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UNIVERSITY OF ARKANSAS · Industrial Research and Extension Center

December 12, 1980

Ms. Beverly Vandertrim
On Location Magazine
6464 Sunset Boulevard
Suite 570
Los Angeles, California 90028

Dear Ms. Vandertrim:

In reference to our telephone conversation on December 11, I appreciate the opportunity to briefly discuss some of our work supporting Arkansas' film office efforts.

My organization has recently completed development and implementation of the first state economic simulation model. The effort was funded by the Economic Development Administration of the U.S. Department of Commerce for the purpose of creating a prototype for implementation in other states as they prepare to embark on their own work in economic simulation. The model was developed in cooperation with Data Resources Incorporated and is compatible with and "driven" by that organization's national econometric model.

The Arkansas model was recently employed to assess the economic impact of expenditures by location filming companies visiting the state. Hypothetical expenditures by production companies, based on reports from other states and on interviews with production company executives, were used as data input. It was first determined that approximately 40 percent of expenditures are lost from the income stream as cost of goods purchased by filming companies (supplied to Arkansas businesses by out-of-state sources) and allowances for depreciation of machinery, equipment and other property imputed to the various categories of expenditures.

It was then determined, through use of the model, that $1 million in expenditures, after first deducting the 40 percent leakage, generates an additional $400 thousand in personal income for Arkansans, $12,000 in direct tax revenues, and an equivalent of 24 new employment opportunities. This additional personal income generated may be expressed as equivalent to a multiplier of 1.67. We emphasize that

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this result applies to those expenditures occurring in Arkansas; the result is likely to be different in other states.

I hope this information will be useful in the preparation of your article and that you will let us know if we can be of further service.

Yours truly,

Billy Williamson
Senior Research Specialist

BW:ry

Enclosure

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First Vice President
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LINWOOD G. DUNN
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JANE FONDA
WILLIAM A. FRAKER
SIDNEY GANIS
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TEX RUDDLOFF
WALTER M. SCOTT
FREDRIC M. STEINKAMP
HAROLD L. WESTERN
ROBERT L. WISE
RICHARD D. ZANUCK

December 1, 1980

Mr. Steve R. Smirnoff
Transmark Company
3581 Kachemak Circle
Anchorage, Alaska 99502

Dear Steve:

It was a pleasure to make your acquaintance last week during your oft-delayed trip to Los Angeles. I hope you will not be a stranger to the land of glitter and tinsel and that we'll have the chance to see you often.

I wish you the best of success with your efforts to establish a film production commission in Alaska. While you may be later in making such a move than most states, you still have sites to offer filmmakers that are not available anywhere else in the world, and I should think an organized film promotion effort would be quite successful in Alaska.

I'd urge you again to attend the annual meeting of film commissioners, no matter where it may be held. You'll have a chance there for one-on-one talks with film promotion executives from all over the country, who will give you a lot of invaluable information about the pitfalls and rosebeds of the film promotion business.

If there is any way I can be of help to you, please don't hesitate to get in touch. And I'm looking forward to breaking bread the next time you're in Los Angeles.

I hope your holidays are merry this year; somehow I have a feeling they'll definitely be white!

Best regards,

John M. Pavlik
Executive Administrator

JMP:bg

KACC

August 20, 1980

Mr. Steve R. Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

Dear Steve:

At its August 18 meeting, the Kodiak Area Chamber of Commerce Board of Directors voted to endorse and support the creation of an Alaskan Film Commission.

The development of a film industry will certainly create new jobs, bring production companies to the state, call world wide attention to the beauty of our state and generally add to Alaska's economic base.

The board wishes you well in your efforts.

Cordially,

KODIAK AREA CHAMBER OF COMMERCE

Hazel E. Hogan
President

HEH:fp

CITY OF KETCHIKAN

334 FRONT STREET P. O. BOX 7300 TELEPHONE 907 225-3111

September 23, 1980

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

Dear Governor Hammond:

The establishment of a state-wide Alaska Film Commission has been proposed in order to help establish another economic base in our state. We understand that Bob Clark of your office is familiar with the proposal and can furnish any details which you may desire. There has, of course, already been some cinematic production here, but it appears that there is a considerable potential, especially if we can organize our resources on a statewide basis.

Realizing the opportunities that such a plan presents, the Council of the City of Ketchikan has unanimously endorsed the proposal by motion. Also, it has been suggested that the Commission be organized under the aegis of the Council on the Arts or, perhaps even more appropriately, within a new "Department of Cultural Affairs", an idea which has had some endorsement throughout the state.

Sincerely,

John W. Shay, Jr., Mayor

cc: Steve R. Smirnoff
9421 Dundee Circle
Anchorage, Ak. 99502

Mrs. Virginia Klepser
Box 5500
Ketchikan, Ak. 99901

fairbanks north star borough
p.o. box 1267 520 fifth ave. fairbanks, alaska 99707 907-452-4761

October 7, 1980

Steve Smirnoff
9421 Dundee Circle
Anchorage AK 99502

Dear Mr. Smirnoff:

Thank you for your letter regarding the conference planned on the formation of the Alaska Film Commission. I regret that I will be unable to attend this meeting, but the Fairbanks North Star Borough offers its support of your efforts.

The Fairbanks area has many features that should be of interest to the film industry. These include outstanding scenery, such as the Alaska Range, the Tanana Valley, the Brooks Range to the north and Mt. McKinley National Park to the south, a short two-hour drive from Fairbanks. Other attractions that can be found in this area include the only operating sternwheeler riverboat in the state, the Trans-Alaska Pipeline, the North Slope Haul Road, gold dredges, fishing wheels, an oil refinery, and Native villages.

As you are probably aware, much of the footage used in the film entitled "Spirit of the Wind" was shot in and around Fairbanks. I believe this is a strong indication of the ability of our community to provide services and settings desired by the film industry.

Finally, the Borough also has comprehensive social and economic data available to provide information on housing and other material about the local economy.

The Borough has a long-standing policy of promoting economic development plans that will diversify the economy of this area. The creation of the Alaska Film Commission appears to have significant potential for helping us achieve that goal.

Sincerely,

John A Carlson

JOHN A. CARLSON
Borough Mayor

JAC/sek

Mr. Steve R. Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

September 9, 1980

Dear Steve:

The idea of an Alaska Film Commission seems like a good one. The Alaska Humanities Forum has often been involved, in a small way, in the making of documentary films about Alaskan issues. Through the process we have come to realize the potential for much larger efforts of both commercial and non-profit kinds. I think an Alaskan Film Commission would be invaluable in attracting the film industry to use Alaska for location productions and in the development of the viable segment of our Alaskan economy.

Good luck on the venture. It should be a valuable one for the whole state.

Best wishes,

Gary H. Holthaus
Executive Director

GHH;mt

ALASKA HUMANITIES FORUM

429 D STREET • ANCHORAGE • ALASKA • 99501 • PHONE (907) 272-5341

Alyeska RESORT

P.O. BOX 249 GIRDWOOD, ALASKA 99587

August 8, 1980

ALASCOM, INC.
Attn: Steve Smirnoff
949 E. 36th Avenue
Anchorage, AK 9950

Dear Steve:

I note in the Chamber News Brief #3, that you are going to be the chairman of an Alaskan film commission. Personally, I think it is an excellent idea. I recall several years ago reading about a similar organization in New York to get more film teams and movies made in the state of New York. It was extremely successful to get more business and generate more revenues for various communities in that state.

I just want to let you know that Alyeska Resort, being a member of the chamber, would be pleased to be included in any of your considerations for a site for film teams. We have an excellent location near town, but far enough away to be in the countryside with mountains, glaciers, hotel accommodations and many restaurants, bar, etc. So I think we could provide good summer and winter scenery backdrop for movies.

Enclosed is some general information and folders on Alyeska Resort. If you need specifics in the future, please don't hesitate to contact our office. Good luck and best wishes. Let me know if I can help.

Sincerely,

Chris von Imhof
Executive Vice President/General Manager

Enclosures

CVI:bjb

July 1, 1980

Mayor George Sullivan
Pouch 6-650
Anchorage, AK 99502

Dear Mayor Sullivan,

There is currently an effort by PRSA member Steve Smirnoff and others to establish an Alaskan Film Commission in the state.

The objective of the group is to attract more film makers to use Alaskan settings for motion pictures.

This strikes me as an excellent way to bring added dollars to Alaska. But more to the point of PRSA, it is also an excellent way to get a truer picture of Alaska to the rest of the U.S.

I wish you would consider lending your support to the idea.

Cordially,

Len McLean

dc

bcc

Pictures Inc.
Alaska 16mm. Distributor of Hollywood's Finest Films
811 W. 8th Avenue
Anchorage,
Alaska 99501
Phone: 279-1515

July 1, 1980

Mr. Steve Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

Dear Steve:

I certainly appreciate you calling and asking my opinion of a film commission for the State of Alaska. Naturally, with my contacts with the producers and also the requirements of the theaters, I do find that there are a lot of people who would like to shoot footage and features in the State of Alaska. We certainly have the beauty, and variety of locations that lends itself for a good movie! It is very difficult for most people outside the State to find out where they need to go to get the kind of footage they need and also how to contact people regarding flights, accommodations and what supplies we have locally within the State. I think the State needs a coordinating agency very badly, such as a film commission.

I certainly hope that your efforts do pay off and that this becomes a reality.

Best regards,

Dick Norman
General Manager

DN:md

ARTS ALASKA, INC.
Alaska's not-for profit arts service corporation

430 West 7th Avenue • Suite 2
Anchorage, Alaska 99501 • (907) 272-3428

August 8, 1980

Steve Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99501

Dear Steve:

I thoroughly enjoyed discussing your far-sighted throughts on the development of a film and television-production industry in Alaska. Many of the ideas you expressed have run through my mind over the past year.

I strongly endorse your effort to further the development of this potentially dynamic, job producing industry. Again, let me offer my personal assistance and Arts Alaska's applicable expertise in assisting you and others who recognize this industry's viability and desirability.

As Alaska enters a new economic era fueled by its vast petrochemical wealth, the state, primarily through the actions of its government, will hopefully recognize the need to diversify its economic base. Some of the state's wealth would be wisely invested in a limited financial endorsement of an active policy to develop this clean, profitable and infinitely renewable business.

Outside film and television interests have, for years, flirted with the visual attractiveness and contagious frontier spirit of our state. A small, but important, committment of government support, both political and financial, would easily provide a healthy economic offspring to our state.

The benefits to Alaskans in increased local jobs and greater tourism incurred by vastly higher levels of outside exposure provide powerful incentive for a cooperative drive by state government and the state's fledgling film and television businesses for this industry.

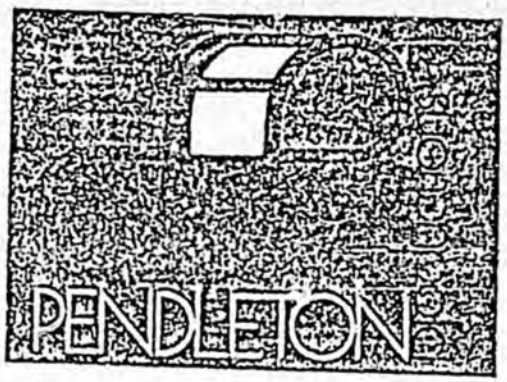
I am very interested in joining the work of your committee. Please keep me informed on developments produced by your efforts.

Best regards,

Ira Perman
Executive Director
ARTS ALASKA, INC.

Enclosure

IP/bn



Box 10-349 / South Station / Anchorage, Alaska 99502 / Phone 907-349-3592 & 349-3393

Mr. Steve R. Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

July 30, 1980

Dear Steve,

As we discussed, Pendleton Productions beleives that the formation of a Film Commission could be of great benefit to the State, the local talent pool of Audio and Film Services, and the people and businesses involved in production logistics for an on-location shoot.

A properly organized effort could provide needed location expertise and make available to the out-of-state production co. the multitude of scenic possibilities as well as facilitating native cooperation where needed.

Pendleton Productions has aided in location and 2nd unit work for several theatrical productions and people are always amazed to see that wilderness in it's most pristine forms is available just a few minutes from the comforts of modern urban civilization.

We heartily support you in your efforts and look forward to this idea reaching early fruition.

Cordially yours,

George

George E. Luken, Jr. President

[illegible], CHAIRMAN, [illegible]
ABRAHAM RIBICOFF, CONN.
HARRY F. BYRD, JR., VA.
GAYLORD NELSON, WIS.
MIKE GRAVEL, ALASKA
LLOYD BENTSEN, TEX.
WILLIAM D. HATHAWAY, MAINE
FLOYD K. HASKELL, COLO.
SPARK M. MATSUNAGA, HAWAII
DANIEL PATRICK MOYNIHAN, N.Y.

[illegible], F. C[illegible], N.H.
CLIFFORD P. HANSEN, WYO.
ROBERT J. DOLE, KANS.
BOB PACKWOOD, OREG.
WILLIAM V. ROTH, JR., DEL.
PAUL LAXALT, NEV.
JOHN C. DANFORTH, MO.

MICHAEL STERN, STAFF DIRECTOR
GORDON S. GILMAN, CHIEF MINORITY COUNSEL

United States Senate
COMMITTEE ON FINANCE
WASHINGTON, D.C 20510

July 11, 1980

Steve R. Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

Dear Steve:

It is my understanding that you are spearheading a program to establish an Alaskan film commission for the purpose of promoting our state as an on-location site for the production of feature films, television features and commercials. In view of the tremendous potential that lies in the areas of economic and cultural benefits that Alaska and her people can derive from such an enterprise, I offer my support without hesitation.

As you may know, for a number of years I have been personally instrumental in assisting film makers by providing information about Alaska through my office and have consistently encouraged filming in Alaska. It is a pleasure to learn that an organized effort is being made by the Chamber of Commerce through your committee to attract this exciting and profitable industry to our state.

As an initial step, I have instructed my staff to provide you with a list of friends in the film industry who may be in a position to assist you with your efforts in bringing production crews to Alaska. I have also requested that my office contact these individuals to set up appointments for you during your visit to Los Angeles next month.

Best wishes for a successful program and should you require additional support from this office, I hope you will not hesitate to contact me.

Sincerely,

Mike Gravel

Municipality of Anchorage

POUCH 6-6[illegible]
ANCHORAGE, ALASKA 99502
(907) 264-4431

GEORGE M. SULLIVAN,
MAYOR

OFFICE OF THE MAYOR

July 11, 1980

Mr. Steve Smirnoff
9421 Dundee Circle
Anchorage, Alaska 99502

Dear Mr. Smirnoff:

Your suggestion that the film industry should be actively encouraged in Anchorage and Alaska is certainly beyond question. I am enthusiastic about bringing such a "clean" industry to the Municipality, which would contribute to our economy without "cost" to our environment. The future of Anchorage depends upon the establishment of new industries, and domestic and international film production is one we welcome.

Chuck Becker has advised me of your outstanding research and organizational activities to date, and I wish to commend you for this valuable service in the public interest.

Under the Anchorage Municipal Charter, a commission must be established by ordinance enacted by the Assembly. Such an ordinance requires extensive background on the duties and responsibilities of the proposed commission.

I understand that you will soon be traveling to Los Angeles for additional research into the needs of the industry, and to establish contacts with major motion picture and commercial producers. Upon your return, I suggest you again meet with Chuck and my press officer Kathy Madison, to develop a detailed information packet we can present to the Assembly. With proper preparation, I am confident the Assembly would consider favorably the creation of an Anchorage Film Commission.

I would also encourage you to continue to work with the State and other cities in Alaska to develop comparable programs, each of which would be mutually beneficial to the other and maximize our opportunities for success.

Again, I commend you for your efforts and look forward to your continued interest.

Sincerely,

George M. Sullivan
Mayor

GMS/mc

17624 PARTHENIA ST.
NORTHRIDGE, CALIF. 91324

LOCATION CONSULTANT

PHONE (213) 349-9518

FILM
TAPE
RESEARCH

Mr. Steve Smirnoff
9421 Dundee Circle
Anchorage
Alaska, 99502

July 25, 1980

Dear Mr. Smirnoff:

I recently returned, again, from the State of Alaska. As always when I return to the lower 48 I am left with a feeling of awe. The magnitude of beauty, space, clean air and sence of a new frontier is so re-generating.

My visits to Alaska are generally in a professional capacity of location scouting for motion pictures, television, and television commercial filming. It is my job to find and secure filming sites. I have done this around the world, but am still most excited about Alaska.

I read in BackStage that you are in the process of establishing a film commission for the State of Alaska.

It is long overdue.

I have been so frustrated over the years while filming in Alaska. You have almost everything necessary to film in your State except coordinated business and government assistance. For a state, (largest in the nation), with the greatist back-grounds and settings in the country, it is a crime for you to miss out on the prestige and economical rewards generated by film makers.

I feel so deeply about a Alaska Film Commission that in a letter to Governor Hammond I proposed setting one up. Obviously you have been working of this project for sometime and have progressed to near reality, thus my not receiving a reply from your state.

I look forward to meeting you and your next trip South or my next trip North.

Best Regards:

David A. Smirnoff



July 1, 1980

Mr. Steve R. Smirnoff
9421 Dundee Circle
Anchorage, AK 99502

Dear Steve:

Your thoughts on an Alaska State Film Commission are timely. There appears to be a great deal of interest in shooting film and tape in Alaska by New York and Los Angeles producers and advertising agencies. We get calls regularly from groups in both of those film production centers. And this is with no promotion!

As a film producer in Alaska I can see some limitations in advertising the state as a mecca for production. The principle drawback we have is our weather. This, it seems to me, makes Alaska rather undesirable as a location for shooting feature productions. However, by the same token, Alaska's exotic scenery make it a natural for television commercials. I feel that properly promoted, Alaska could become a production location for many national and regional commercials. The amounts of money involved in this type of production are tremendous.

Should this project be successful in luring commercial production to the state, it is likely that other types of production would follow as producers and production crews become familiar with the state and its attractions.

The very attraction of production to Alaska would undoubtedly provide opportunities for production companies such as this one to participate in varying degrees with outside companies. For example, in the past we have provided everything from minor equipment to production management services through full production to advertising agencies and producers from New York, Los Angeles and other lower 48 production centers. I am certain our opportunities in this area would esclate with proper promotion.

Good luck with your project. If there is anything more I can do to help, please call on me.

Creative Center
7404 Sand Lake Road/Anchorage, Alaska 99502
Telephone (907) 243-4110 / Mail: P.O. Box 4-406, Anchorage, Alaska 99509

Best regards,

Ed Isenson

6464 SUNSET BLVD. SUITE 570
(213) 467-1
On Location
PUBLISHING INC.
On Location
HOLLYWOOD, CALIF. 90028

November 28, 1980

Mr. Steve R. Smirnoff
Transmart Company
3581 Kachemak Circle
Anchorage, Alaska 99502

Re: Alaska Film Commission

Dear Steve:

It was a pleasure meeting with you the other week. I would like to take this opportunity to tell you how pleased we at On Location are that you are gaining momentum in forming the Alaska Film Commission.

As one of the major sources of information for the motion picture and television industry, On Location would like you to know that you have our full support and access to any and all of our resources to aid you in promoting the state of Alaska.

If, at any time in the future you think we could be of any assistance, please feel free to give me a call.

Sincerely yours,

Marshall Rubin
Associate Publisher

MR:mk

WILLIAM P. CLEMENTS, JR.
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

June 12, 1980

Mr. Steve Smirnoff
9421 Dundee Circle
Anchorage,AK 99502

Dear Mr. Smirnoff:

In answer to your telephone call, we are pleased to provide you with information relating to the work of the Texas Film Commission.

We are a division of the Governor's Office which was organized in 1971 for the purpose of bringing producers to our state to film theatricals, documentaries, commercials, or any other type production, for the economic benefit to be derived from that production.

The latest available figures show a total of $45,540,000 has been spent in Texas by motion picture and television production companies from January 1972 through December 1978.

To assist you in evaluating the growth of the industry in Texas, let me point out that during the first two years the Texas Film Commission functioned, it was responsible for bringing $10 million in motion picture production budgets to Texas; the second two years, the figure rose to $18 million; the third two years, the figure climbed to $60 million, and last year alone, $58 million was brought into Texas from outside sources. During the 1979-80 biennium, better than $76 million in productions have either been filmed already, or have been confirmed to be filmed here later this year. We fully expect that figure to exceed $90 million before the year is out, based on our knowledge of productions which are considering filming here, but have not as yet confirmed.

WILLIAM P. CLEMENTS, JR.
GOVERNOR

OFFICE OF THE GOVERNOR
STATE CAPITOL
AUSTIN, TEXAS 78711

June 12, 1980

Mr. Steve Smirnoff
9421 Dundee Circle
Anchorage, AK 99502

Dear Mr. Smirnoff:

In answer to your telephone call, we are pleased to provide you with information relating to the work of the Texas Film Commission.

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Under separate cover, we are forwarding you an informational packet, including our Texas Production Manual, a compilation of film-related services and facilities available statewide, a locations brochure reflecting the variety of "looks" available in our state, a directory of the Texas Association of Film/Tape Professionals, some recent issues of our Film-Texas newsletter, and one of our posters promoting Texas as "The Third Coast".

I hope this information is helpful in your considerations relating to the establishment of a film promotion office in Alaska.

Best wishes,

TEXAS FILM COMMISSION

Pat Wolfe

Pat Wolfe
Executive Director

PW.jo

Office of Motion Picture and Television Development
2525 Riva Road, Annapolis, MD 21401 |301| 269-3500
Jack K. Smith, Director

July 15, 1980

Mr. Steve R. Smirnoff
9421 Dundee Circle
Ancharage, Alaska 99502

Dear Steve,

It was very pleasant speaking with you today and learning of your interest in getting a motion picture office started in Alaska.

Naturally, I would think this is a good idea, it has been for us. For a two year period it was rather discouraging trying to get the right people in the State on our side. However, during this period, we kept right on with our efforts and fortunately landing a few good pictures in the process. Now, we are getting good support and have obtained the respectability of being made into law be the legislature. (A copy of this legislation is enclosed).

I went through the trauma of how to get this office organized. Did I want it through an act of legislation - or was a mandate by the Secretary of Economic and Community Development the right route? If I were to go the legislation way - no doubt there would be some kind of commission involved - and who needed a group of political appointees telling me what to do. I did not have the luxury of being able to be set up as part of the Governor's Office.

So, this is what happened. Since I was already a part of Economic and Community Development, I was finally able to persuade the, then, Secretary of the Department to create this office within the Department - and obtained some sort of official recognition so that I might work.

However, as time went by I began to realize that politics being, by nature of elections, often changing personalities as well as opinions - I thought I better try for legislation. I did, and after two attempts the Office of Motion Picture and Television Development was ratified by legislation - as well as the Motion Picture and Television "Council".

As it turned out - there was an election - people elected a new governor - and he, in turn, appointed a new Secretary of this Department - and early on - I learned the new Secretary has some misgivings about a motion picture office - and I feel a whole lot better about this office being enacted by legislature. It also turned out well as far as the "Council" was concerned. All members were selected by us - and all are motion picture or TV oriented with the exception of the two legislators (see bill) but one of those legislators introduced the bill. So now, everything is set - with the exception of one small item - nobody thought of a budget - however, I did manage to get about fifteen thousand operating expenses for this year.

That's Marylands motion picture office story - a story in which we intend to add many exciting chapters.

Please let me know how you make out. I think Alaska should have an office - why should a producer go to Canada when you have it all there? As you know, there are 44 states that have some kind of a motion picutre office - so why not be number 45? I am sure, that before long all 50 states will be represented; I forgot to add that there are 17 major cities that also have some kind of office - other than the state office.

If there is anything at all I can do to help you get started, please do not hesitate to let me know.

Good luck - and take it easy!

Sincerely,

Jack K. Smith

JKS:ckh

STATE OF FLORIDA DEPARTMENT OF COMMERCE

Division of Economic Development Collins Building, Tallahassee 32301

September 16, 1980

Mr. Steve Smirnoff
Alaska Film Office
9421 Dundee Circle
Anchorage, Alaska 99502

Dear Steve:

Enclosed is a copy of our Florida Golden Pages.

Good luck on your new office. You certainly have the locations. If they nees sun and sand, send them our way.

Sincerely,

Charles Porretto
Motion Picture and TV Office

CP/mh

Enclosure

PROPOSAL: Creation of two positions within the Dept. of Commerce to promote increased use of Alaska locations by the motion picture and television industry.

Compared to other states, Alaska has remained relatively untouched by the $17 billion-a-year motion picture and television industry. Even films about Alaska, such as one titled SITKA recently produced in Puget Sound, have been shot elsewhere for reasons that are unclear.

The motion picture and television industry, if encouraged to use Alaska locations for filming, could potentially pump millions of dollars into local economies every year. The Texas Film Commission, which has the responsibility of soliciting the use of Texas locations for motion picture and television productions, reports over 45% of the total budgets for films produced there has been spent within that state for goods and services. 29 other states with film commissions, bureaus, or task forces, report similar benefits. During 1979, motion picture companies left $25 million in New Mexico. The filming of the movie FIST over a six-week period pumped over $2 million into the local economy of Dubuque, Iowa.

Though our scenery and cultural diversity offer great potential, Alaska has no mechanism to actively promote the use of Alaska locations or provide any assistance to production companies in overcoming various logistical problems they may encounter here. The State Division of Tourism will answer inquiries from the industry, but Alaska offers none of the services that have proven effective in attracting production companies to other states.

In 1978, the states of Arkansas, Louisiana and Georgia jointly contracted a study to identify characteristics of film attraction programs most sought by motion picture producers. The study identified the key elements of successful programs as follows:

a) The existence of a film commission with the absolute support of the governor of the state;

b) A commission which, or who, interjects itself into the community of the film industry's key decision-makers;

c) A steady flow of up-to-date information about the state, including photographs, lists of important information such as services available, availability of talent, equipment, technical expertise, logistical support, etc.;

d) Listings in popular industry directories and informative advertisements in leading trade periodicals;

e) Honesty of the commissioner in accurately selling his state and in responding promptly to requests for information;

f) Presence of commission representative on site for the duration of location filming;

g) Cooperation of other state officials, local residents and officials, unions.

Alaska stands to gain in many ways from the eventual creation of a Special Film and Television Task Force that offered the above characteristics. Even if such a Task Force succeeded in attracting only one additional production a year over the current level of activity, it would bring more money to the private sector in the state than would be spent for its operations.

A wide variety of industries would benefit from increased production expenditures in Alaska: transportation, hotel, restaurant and media-related services, to name a few. The tourism industry would receive

additional indirect benefits from increased exposure of Alaska among television and motion picture viewers all over the world.

In order to begin a direct promotional campaign to attract the industry to Alaska, roughly nine months of prepatory work must be completed. Two new positions within the Department of Commerce are necessary for this preparation: a Special Assistant to the Commissioner and an Administrative Assistant. The Special Assistant would have the following responsibilities:

a) Developing an inventory of production services available within the state;

b) Compiling a list of pertinent regulations, permit details and specific requirements for use of municipal, state, native and federal land and determining government actions that could aid the industry in securing necessary permits, waivers, etc.;

c) Compiling an inventory of locations, basic data, talent and craft resources that exist within the state;

d) Developing a portfolio of photography that represents the state and its prime locations from an historical, cultural and natural perspective;

e) Surveying the concerns and restrictions of various production unions and determining the impact of productions in Alaska on these unions;

f) Establishing a fact-finding dialogue with producers, directors, screenwriters, location managers, and production personnel with emphasis on the major feature-producing studios;

g) Developing a public relations approach for advertising and promotion of the state to the industry;

h) Proposing organizational options for a Special Film & Television Task Force for promoting the use of Alaska locations including budget projections, promotional plans, job descriptions, timetables and master plan;

i) Completing a final report with all research, conclusions and recommendations for review by the Twelfth Alaska Legislature during its second session.

Proposed Budget FY 82 for two positions within Commerce Dept.

Description	Amount
Salaries & Benefits	
Special Assistant	
Salary Range 22A, $3,494/Mo.	$41,928
Benefits	10,901
Administrative Assistant	
Salary Range 12A, $1,761/Mo.	21,132
Benefits	5,494
Travel & Per Diem	5,000
Contractual	20,000
Printing, telephone, office space, miscellaneous professional fees	
Commodities	2,000
Office supplies	
Equipment	3,000
Total FY 82	$109,455

If the effort to promote increased use of Alaska locations by the industry is to succeed, it must have support from both the public and private sectors. It is hoped, therefore, that the FY 82 budget would include seed money from both. An ideal 50/50 match would mean $55,000 from each entity. The potential return over the long run, particularly for the private sector, is great.

-0-

MAR 23 1981

Los Angeles International Film Exposition

6830 Sunset Boulevard
Hollywood, USA 90028

Telephone: 213/469-9400
Cable: ROSEBUD Hollywood

March 17, 1981

Senator Bettye Fahrenkamp
Pouch V
State Capitol
Juneau, Alaska

Dear Senator Fahrenkamp:

I am sorry that I didn't have the opportunity to talk with you during my trip to Juneau last week. I hope you have had the opportunity to review my materials on a State Film Commission or Task Force. Most of my materials are with Russ Meekins office in care of John Hale.

I understand that you are planning to introduce a plan to set up Motion Picture Industry promotion via the Department of Economic Development and Commerce. I spoke with Commissioner Weber and Richard Montague of Tourism, It seems that Mr. Montague feels that Tourism is already promoting the State to the industry and handling all assistance needs. This Department has already had the opportunity to do the job but the track record is poor. I can tell you that Alaska doesn't have a wonderful reputation within the film industry. It appears it is currently difficult to obtain direct cooperation and assistance from the State.

I understand that your plans calls for matching funds from the in-state industries that would most benefit from the film industry using Alaska locations. It would seem to me that it would be difficult to expect such cooperation based on past results. The State needs to take the first step and once the "industry" starts exploring the State and expenditures start materializing then we can expect underwriting by the private sector.

My suggestion to John Hale was to for this project under the Governor's office. It seems they do not want to undertake this project. (It really does belong there, other State Film COmmissions prove this fact.) There is considerable potential in this new industry for Alaska. Please, I stand ready to assist in any way I can via my position here in Hollywood. Do not hesitate to contact me.

Sincerely,

Ken Ott

KENNETH OTT
General Manager
FILMEX

FILMEX

A Non-Profit Corporation

Gary Essert
Director
Barbara Zicka Smith
Assistant Director

The Board of Trustees

Thomas Pollock, *Chairman*
Mike Medavoy, *President*

Gary Abrahams
Steven Bach
Frederick Brisson
Kathleen Brown
Philip Chamberlin
Rob Cohen
Michael D. Eisner
Gary Essert
Gary R. Familian
Phil Feldman
David Field
Peter Gerger
Wendy Goldberg
Peter Guber
Jeremy Paul Kagan
Fay Kanin
Gloria Katz
Arthur Knight
Howard Krom
Gary Kurtz
Alan Ladd, Jr.
Sherry Lansing
Leonard Levy
W. M. Marcussen
Franklin D. Murphy
Helen Neufeld
Jack Nicholson
Michael Ovitz
Max Palevsky
Elisabeth Pollon
Frank Price
Henry Rogers
Richard S. Rosenzweig
Michael Roshlund
Daniel Selznick
Robert W. Shapiro
Sidney J. Sheinberg
Richard A. Shepherd
Charles J. Weber
Jerry Weintraub

Levine, Krom & Unger
Legal Counsel
Kenneth Leventhal & Company
Financial Consultants

March 31, 1981

Kenneth Ott
General Manager
FILMEX
6230 Sunset Boulevard
Hollywood, California 90028

Dear Ken:

I appreciated receiving your letter giving your thoughts and ideas regarding our plan to set up Motion Picture Industry promotion here in the State.

My staff is presently working on this idea and your suggestions will be kept in mind. I will not hesitate to contact you when the need arises.

Thanks again, Ken.

Sincerely,

Bettye

Bettye Fahrenkamp
Alaska State Senator

BF/ab

I. REQUEST

Bill/Resolution No. SB 406

Title An Act establishing a film and television section

Requested by Fahrenkamp, Mulcahy, Ziegler, Stimson and Sturgulewski Date 4/9/81

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Development

BRU, Program, or Subprogram(s) Affected Office of the Commissioner

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		79.4				
200 TRAVEL		5.0				
300 CONTRACTUAL		25.6				
400 COMMODITIES		2.0				
500 EQUIPMENT		3.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	115.0	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	115.0	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME	0	2	0	0	0	0
PART TIME						
TEMPORARY						

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

100 Personal Services: Salary and Benefits, 2 positions
Special Assistant, Range 22A 52.9
Administrative Asst., Range 12A 26.6

200 Travel: Necessary in-State travel and per diem to compile and verify location settings and develop photo portfolio, allows two out-of-State trips for industry contact 5.0

300. Contractual: Communications (2.4), Office Space (5.4), Printing (10.0), other professional fees and services (7.8) 25.6

400 Commodities: Office Supplies 2.0

500 Equipment: Office Equipment for two positions 3.0

IV. DATE _____ PREPARED BY Terry L. Miller

AGENCY Dept. of Com. & Econ. Devel., Div. of Tourism

PHONE 465-2010

Original: Legislative Finance

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

33 001 (Rev. 12/80

SB

411

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

April 28, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor &
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 411

SB 411 which will soon be before your committee is a companion bill to CSHB 325 which recently passed the House.

Although the House Labor and Commerce Committee was provided with a Fiscal Note and testimony on this bill, the bill inadvertently passed the House without the attendant Fiscal Note. We are enclosing herewith a copy of that Fiscal Note as we feel it is important that it be considered by your committee. In addition, we are enclosing a copy of our Bill Analysis which requests that the language of SB 411 be conformed to that of CSHB 325. These changes will make clear that the area of concern is solely that of Native corporations.

The Division of Banking and Securities' staff is available for testimony on the bill at such time as you may schedule it for hearing.

Yours very truly,

FOR Charles R. Webber
Commissioner

CRW/mc2/1

Enclosures

08-H2LH

Department of Commerce and Economic Development
Division of Banking and Securities

Bill Analysis
SB 411

Senate Bill 411, "An Act relating to orders under the Alaska Securities Act of 1959," provides the Administrator of Securities with proper authority to take action against deceptive and fraudulent practices in proxy solicitations. The bill corrects the lack of administrative remedies in AS 45.55.159, enacted in 1977.

The intention in adding the two new sections, (B) and (C), to AS 45.55.200(a) is to provide proper enforcement for violations of Section 160 by companies described in Section 139 only. The legislation, as introduced, does not limit the Administrator's authority to proxy solicitations by ANSCA corporations. In fact, it would permit the Administrator to take action against the GM's and IBM's even though the Alaska Securities Act does not otherwise provide such authority, as their proxy solicitations are already fully regulated under the Federal Securities Act of 1934.

The Division of Banking and Securities recommends the adoption of the amendments incorporated in CSHB 325 (L & C). With this proposed amendment, the Division would be in favor of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 325

Title An Act Relating to Orders Under the Alaska Securities Act of 1959

Requested by Adams Date 3/21/81

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking and Securities

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200	TRAVEL		10.0	10.5	11.0	11.5	12.0
300	CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400	COMMODITIES		1.0	1.0	0	0	0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	35.8	37.6	38.5	40.5	42.6

FUNDING (Thousands of Dollars)

GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

See attached.

IV. DATE 3/16/81 PREPARED BY James T. Thompson

AGENCY Dept of Commerce & Econ Dev.

PHONE 465 2521

Original: Legislative Finance

cc. Budget and Management

Prime Sponsor (First Legislator Named)

33 001 (Rev. 12/80

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Administrative Support Tech II			8A	G	Juneau			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG.		
2	PFT	12		1186					

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
3			
4	PERSONAL SERVICES: SALARY $1,393/month	16.7	
5	BENEFITS	2.6	
6	FICA	1.0	
7	HEALTH INS.	1.8	
8	TOTAL PERSONAL SERVICES 01		
9	TRAVEL 02		22.1
10	CONTRACTUAL 03		0
11	COMMODITIES 04		1.0
12	EQUIPMENT 05		0
13	OTHER space costs		2.7
14	TOTAL COST		25.8

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	25.8
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR BRM USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

AGENCY Commerce and Economic Development

PROGRAM Consumer Protection

BRU Banking and Securities

COMPONENT Financial Institutions

13 REQUEST FOR NEW POSITION

Page _____ of _____

REVISED DATE _____

FY 82

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 411

Amends AS 45.55.200 relating to orders and injunctions under the Alaska Securities Act. When the Commissioner of Commerce and Economic Development determines that a person has engaged or is about to engage in a practice in violation of the Alaska Sec. Act he may, after giving reasonable notice, issue an order directing the person to cease and desist from continuing the act, or he may bring an action in the superior court. He may issue a temporary order pending the hearing, which shall remain in effect until 10 days after the hearing is held, and which becomes final, if the person to whom the notice is addressed does not request a hearing within 15 days after receipt. Bill expands the scope of the order issued by the administrator, and requires the person to file annual reports, proxies, consents or authorizations, proxy statements, or materials relating to proxy solicitations, with the administrator for examination, 10 working days before a distribution to shareholders. This period of filing may not exceed three years.

If the proxies were solicited by untrue or misleading means (prohibited under AS 45.55.160) the order shall void the proxies including their future exercise or actions resulting from their past exercise.

Sec. 45.55.150. Filing of sales and advertising literature. The administrator may by rule or order require the filing of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser. (§ 303 ch 198 SLA 1959; am § 12 ch 105 SLA 1961; am § 14 ch 86 SLA 1972)

Sec. 45.55.160. Misleading filings. It is unlawful for a person, in a document filed with the administrator or in a proceeding under this chapter, to make or cause to be made an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. (§ 304 ch 198 SLA 1959; am § 15 ch 86 SLA 1972)

Materiality under common law. — Under Alaska common law, a misrepresentation is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. Subjective proof that one or more shareholders actually granted a proxy because of a falsehood is not required; only the objective standard encompassed in the definition of materiality need be met. Brown v. Ward, Sup. Ct Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

Proxy solicitations held materially false. — Where the misrepresented ability of a regional corporation to distribute money or land to shareholders on the large scale expressed in the solicitation would be likely to influence shareholders to grant proxies to the solicitor, the proxy solicitations were materially false as a matter of law. Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

ALR and C.J.S. references. — Attorney's preparation of legal document incident to sale of securities as rendering him liable under state securities regulations statutes, 61 ALR3d 252.

19 C.J.S. Corporations §§ 931, 1364; 53 C.J.S. Licenses § 78.

Sec. 45.55.170. Unlawful representations concerning registration or exemption. (a) Neither the fact that an application for registration under AS 45.55.030—45.55.060 or a registration statement under AS 45.55.070—45.55.120 is filed nor the fact that a person or security is effectively registered constitutes a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. Neither the fact of filing nor the fact that an exemption or exception is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a prospective purchaser, customer, or client any representation inconsistent with (a) of this section. (§ 305 ch 198 SLA 1959; am § 13 ch 105 SLA 1961)

Sec. 45.55.180. Administration of chapter. (a) The Department of Commerce and Economic Development shall administer this chapter.

individual testifying is not exempt from prosecution and punishment for perjury or contempt committed in testifying. (§ 307 ch 198 SLA 1959)

Sec. 45.55.195. Reimbursement of expenses incident to examination. (a) An issuer, broker-dealer, agent, or investment adviser shall reimburse the administrator for actual travel expenses and per diem incurred in connection with an examination incident to a registration under this chapter.

(b) The administrator may by rule or order adopt a schedule of charges for annual examination fees of issuers, broker-dealers, agents and investment advisers.

(c) If an issuer, broker-dealer, agent or investment adviser fails to pay the fees and expenses provided for in this section, the fees and expenses shall be paid out of the funds of the administrator in the same manner as other disbursements made by the administrator. The amounts paid from the funds of the administrator are a lien upon all of the assets and property in this state of the issuer, broker-dealer, agent or investment adviser and the amount may be recovered by the attorney general on behalf of the state.

(d) Failure of the issuer, broker-dealer, agent or investment adviser to pay fees and expenses under this section is a wilful violation of this chapter and the violation falls within the provisions of AS 45.55.060, 45.55.120 45.55.200 and 45.55.210. (§ 16 ch 86 SLA 1972)

Sec. 45.55.200. Orders and injunctions. Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of this chapter or rule or order under this chapter, he may

(1) if he considers it in the public interest or for the protection of investors, issue an order directing the person to cease and desist from continuing the act or practice, provided that reasonable notice of and an opportunity for a hearing shall first be given, except that the administrator may issue a temporary order pending the hearing which shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or rule or order under this chapter, and upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond. (§ 308 ch 198 SLA 1959; am § 1 ch 126 SLA 1968)

Sec. 45.55.210. Criminal penalties. (a) A person who wilfully violates a provision of this chapter except AS 45.55.160, or who wilfully violates a rule or order under this chapter, or who wilfully violates AS

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate Bill 411

Title An Act Relating to Orders Under the Alaska Securities Act of 1959

Requested by Hohman Date 4/16/81

II. FISCAL DETAIL

Agency Affected Commerce and Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Banking and Securities

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

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200	TRAVEL		10.0	10.5	11.0	11.5	12.0
300	CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400	COMMODITIES		1.0	1.0	0	0	0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	35.8	37.6	38.5	40.5	42.6

FUNDING (Thousands of Dollars)

GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

IV. DATE 4/17/81 PREPARED BY Larry Carroll

AGENCY Commerce and Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

SB 509

and (2) the original obligation date is not more than two years from the requested date of disbursement. (§ 1 ch 113 SLA 1962)

Sec. 37.25.020. Unexpended balances of appropriation for capital projects. An appropriation made for a capital project is valid for the life of the project and the unexpended balance shall be carried forward to subsequent fiscal years. Between July 1 and August 31 of each fiscal year, a statement supporting the amount of the unexpended balance required to complete the projects for which the initial appropriation was made and the amount that may be lapsed shall be recorded with the Department of Administration. (§ 2 ch 113 SLA 1962)

Chapter 30. Local Government Bonding.

Article
1. Anticipatory Borrowing (Repealed)
2. Restrictions on Sale of Bonds and Bond Anticipation Notes (§ 37.30.100)

Article 1. Anticipatory Borrowing.

Section
10—90. [Repealed]

Secs. 37.30.010 — 37.30.090.
Repealed by § 1 ch 118 SLA 1972.

Editor's note. — The repealed article derived from § 1, ch. 117, SLA 1964; § 1, ch. 189, SLA 1970.

Article 2. Restrictions on Sale of Bonds and Bond Anticipation Notes.

Section
100. Prohibited bidding on bonds

Sec. 37.30.100. Prohibited bidding on bonds. (a) No person who provides financial programming or marketing assistance to a political subdivision of the state, whether home rule or otherwise, in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the political subdivision may bid on the bonds or notes if offered at public sale, or negotiate for their purchase if sold at private sale.

(b) The sale of general obligation, revenue bonds or bond anticipation notes of a political subdivision to a person prohibited from bidding on, or negotiating for the sale of bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 2 ch 102 SLA 1974)

FISCAL NOTE

I. REQUEST

Senate Bill/Resolution No. 509 - An Act making a special appropriation to the Alaska Power Authority for the Kongiguik Electrification Project.

Title

Requested by Hohman Date 4/23/81

II. FISCAL DETAIL

Agency Affected Commerce & Economic Development

Program Category Affected Energy Development

BRU, Program, or Subprogram(s) Affected Alaska Power Authority

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

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL			212.0			
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL			212.0			

FUNDING (Thousands of Dollars)

GENERAL FUND			212.0			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

The appropriation is to fund installation of an electric power distribution system in the village of Kongiguik, which is not a village recognized under ANCSA. The Power Authority has no estimate of the actual costs of the project or the sources of power generation to supply the village. The Power Authority would contract for design and turn key installation after further investigation of the project.

IV. DATE 4/29/81 PREPARED BY Terry J. McGuire

AGENCY Alaska Power Authority

PHONE 277-7641

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

SB
513

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Letter of Intent.

SB 513

While the committee was reticent to statutorily mandate women's representation on the athletic commission, it is felt that the composition of the athletic commission should include the presence of women, reflecting the participation of Alaskan women in athletics.

Committee members signatures:

Bob Markel Chairman

Bettye Fahrenkamp

Zieglen

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

May 12, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor & Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 513

The Department of Commerce and Economic Development supports SB 513, which transfers the Athletic Commission from the Office of the Governor to this department.

The Division of Occupational Licensing has provided administrative support for the Athletic Commission since August 1980. Contingency monies have now been transferred from the Governor's Office to this department for maintenance of the Athletic Commission through FY '81.

SB 513 would officially transfer the responsibility of budgeting and providing support for the Athletic Commission in the future to this department and would standardize its function with 20 other professional licensing boards presently under the Division of Occupational Licensing.

Very truly yours,

Charles R. Webber
Commissioner

CRW/mc2/1

08-H2LH

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce **Date:** 8 February, 1982
Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler Senator Rodey was excused for a call of the Senate;
Public hearing or committee meeting on: SB 513, SB 590, SB 611

COMMITTEE CALENDAR

SB 513 "An act relating to the Athletic Commission; and providing for
bill number bill title an effective date"

bill number bill title

WITNESS REGISTER

Witness Name: Ms. Susan R Clark
Affiliation: Alaskan Association of University Women
Address: 1109 C St., Juneau, Alaska
Phone:
Summarized Position Statement: Suggested the bill should be amended to include statutorily mandated presence of a woman on the athletic commission;

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp
Action: Passed or Failed
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording Number 0000 Chair opens at 357 with members 3 present etc.

The testimony of Ms. Clark begins at tape reading 357 and continues through tape reading 427;

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce Date: 8 February, 1982
Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 513, SB 590, SB 611

COMMITTEE CALENDAR

SB 513 "An act relating to the athletic commission; and providing
bill number bill title for an effective date"

bill number bill title

WITNESS REGISTER

Witness Name: Mr. Harry Treager, Director
Affiliation: Division of Occupational Licensing, Dept of Commerce and Econ Dev
Address: 9th Floor State Office Building
Phone: 465-2534
Summarized Position Statement: Testified in support of the bill, explaining that administrative and budget support of the commission is currently handled by the Dept. of Commerce and Econ Dev.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp
Action: Passed or Failed
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording Number 0000 Chair opens at 335 with members 3 present etc.

The testimony of Mr. Harry Treager begins at tape reading 339 and continues through tape reading 354;

COMMITTEE REPORT

SENATE

4/24/81

FURTHER: None

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 513

athletic commission

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

S 60 (Rev. 12/78)

Alaska Statutes

Title 5. Amusements and Sports.

Chapter

05. Athletic Commission (§§ 05.05.010—05.05.040)
10. Boxing and Wrestling (§§ 05.10.010—05.10.170)
15. Bingo, Raffles and Ice Pools (§§ 05.15.010—05.15.210)
20. Recreational Devices (§§ 05.20.010—05.20.120)
25. Watercraft (§§ 05.25.010—05.25.100)

Chapter 05. Athletic Commission.

Section

10. Creation and duties of athletic commission
20. Commissioner of athletics
30. Professional and semi-professional athletic programs
40. Meetings and compensation of athletic commission

Sec. 05.05.010. Creation and duties of athletic commission. (a) There is created an athletic commission within the Office of the Governor. The commission consists of four members appointed by the governor. One member of the commission shall be appointed from each of the four major senate districts described in § 2, art. XIV of the state constitution. The commissioners shall be appointed for overlapping two year terms. Members of the commission serve at the pleasure of the governor and shall be selected on the basis of their known interest in and knowledge of athletics in the state.

(b) The commission shall act in an advisory capacity to the commissioner of athletics and shall perform other duties assigned to it by the commissioner. (§ 1 ch 147 SLA 1959)

Sec. 05.05.020. Commissioner of athletics. (a) The governor shall appoint the commissioner of athletics to serve at his pleasure. The commissioner shall be selected on the basis of his knowledge of and contribution to athletics in the state. The commissioner serves for a period of five years.

(b) The commissioner shall, with the aid and counsel of the commission, promulgate the rules and regulations governing athletics and athletic programs and contests as he considers necessary, expedient and appropriate. The rules and regulations shall have the force and effect of law. (§ 2 ch 147 SLA 1959)

Sec. 05.05.030. Professional and semi-professional athletic programs. (a) The commission shall study the semi-professional and professional athletic programs of the state, and report annually to the governor. The report shall include the recommendations of the

SB
539

STATE OF ALASKA

ALASKA PUBLIC UTILITIES COMMISSION

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

JAY S. HAMMOND, Governor

1100 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

Phone (907) 276-6222

January 21, 1982

Senator Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V - State Capitol
Juneau, Alaska 99811

Re: SB 539 (Telephone Cooperatives)
Attn: Michael Thill, Legislative Aide

Dear Senator Mulcahy:

Pursuant to your request, we are submitting our views on the above legislation.

SB 539 would re-write the definition of "telephone service" contained in the Electric & Telephone Cooperative Act (AS 10.25) by substituting for that definition, the virtually identical definition "telecommunications" that appears in the Alaska Public Utilities Commission Act (AS 42.05). Compare AS 10.25 640(4) with AS 42.05.701(8).

The Commission understands that this proposed legislation was introduced at the request of the Matanuska Telephone Association, Inc. (MTA). At that time, MTA had pending before the Commission applications for a certificate of public convenience and necessity to furnish cable television (CATV) service and for an amendment to its local telephone exchange certificate to furnish improved mobile telephone service (IMTS) and radio paging service in its certificated service area.

Counsel may have believed that, under the more restrictive definition of "telephone service" contained in AS 10.25.640(4) there was some legal infirmity in MTA's proposal to furnish CATV and IMTS/radio paging because these are "non-wire" services, and the AS 10.25.640(4) definition focuses on wire-line-type systems. To the best of the Commission's knowledge, however, no such argument ever was made before the Commission, or in appeals taken in court challenging the Commission's decisions with respect to MTA's applications.

3-H6LH

The legal challenges to the Commission's action granting MTA a certificate of public convenience and necessity to furnish CATV service (U-80-68)(1) and IMTS/radio paging service (U-79-69)(5) were withdrawn. A Stipulation signed by MTA (applicant and appellee) and McCaw Communications, Inc. (aggrieved party and appellant) and approved by the Commission on October 29, 1981 (U-79-69(9) and U-80-68(2), resolved that legal dispute. A copy of all referenced documents are enclosed.

The precedent has been established by the Commission that a telephone cooperative, upon a finding of public convenience and necessity and fitness and ability of the applicant to furnish that public utility service, will be granted a certificate. Thus, the Commission believes that SB 539 is moot.

Unless there are other circumstances of which the Commission is unaware which prompt this legislation, there is no need to import the definition of "telecommunications" contained in AS 42.05 into AS 10.25.

Very truly yours,

Carolyn S. Guess

Carolyn S. Guess
Chairman

Enclosures 3

tive to file corrected articles of incorporation or amendments to the original articles, or to do and perform all acts and things necessary, may not be questioned. (§ 37 ch 93 SLA 1959)

Article 5. General Provisions.

Section	Section
610. Purpose	630. Construction of chapter
620. Chapter extended to existing cooperatives	640. Definitions
	650. Short title

Sec. 10.25.610. Purpose. Cooperative, nonprofit, membership corporations may be organized under this chapter for the purpose of supplying electric energy or telephone service and promoting and extending the use of these services. (§ 2 ch 93 SLA 1959)

Sec. 10.25.620. Chapter extended to existing cooperatives. This chapter applies to all nonprofit cooperatives organized under any other law of the state for the purpose of supplying electric energy and power, or telephone service, to its members, or for the purpose of promoting and extending the use of electric energy and power, or telephone service. These cooperatives are subject to this chapter as if originally organized under it. (§ 36 ch 93 SLA 1959)

Sec. 10.25.630. Construction of chapter. This chapter is complete in itself and is controlling. The provisions of any other law of the state relating to the organization of a corporation, except as provided in this chapter, do not apply to a cooperative organized under this chapter. The enumeration of an object, purpose, power, manner, method or thing does not exclude like or similar objects, purposes, powers, manners, methods or things. (§ 35 ch 93 SLA 1959)

Sec. 10.25.640. Definitions. As used in this chapter

(1) "commissioner" means the commissioner of commerce;

(2) "cooperative" means a corporation organized under this chapter or which becomes subject to this chapter in the manner provided in this chapter;

(3) "person" means a natural person, firm, association, corporation, business trust, partnership, federal agency, state or political subdivision, or an agency of the state or political subdivision, or a body politic;

(4) "telephone service" means communication service whereby voice communication through the use of electricity is the principal intended use, and includes all telephone lines, facilities or systems used in the rendition of this service. (§ 3 ch 93 SLA 1959; am § 10 ch 64 SLA 1959; am § 2 ch 1 SLA 1961)

Sec. 10.25.650. Short title. This chapter may be cited as the Electric and Telephone Cooperative Act. (§ 1 ch 93 SLA 1959)

SB
548

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 548 (Finance)

This short sectional analysis describes the one change made in the Senate Finance Committee Substitute to the Senate Labor & Commerce Committee Substitute.

Section 3 of the bill is tightened to allow coverage to other hazards only when such other hazards are customarily included in medical malpractice insurance, and further restricts such coverage for other hazards to instances where the coverage is not competitively available from private insurance companies.

Distributed 18 March 1982
Senator Arliss Sturgulewski

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

CS SB 548; Sectional Analysis:

"An act relating to the Medical Indemnity Corporation of Alaska"

Section 1): Amends As 21.88.030(a)(3)to read: (3) Two professionals form the insurance industry who are authorized to do business in the State. The current statute reads "insurance companies authorized" and the proposed change would allow for persons who are agents or brokers (insurance industry professionals) to have board membership.

Section 2): Amends AS 21.88.050(a)(1) provides for a substantive change to permit "tail coverage" (retroactive insurance) to cover malpractice claims. New language states: at the option of the corporation, if approved by the director, and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician for any period before the contract is issued except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased.

Section 3): Amends As 21.88.050 (b) (3): Provides coverage to insureds for other hazards when approved by the director; Encompasses insurance coverage for premisses liability for circumstances in which an injury occurs on the premisses as a result of "an ommission of health care" by a physician or medical staff. Example: Inadvertantly, the rail on a hospital bed is left down, and a patient sleeping under medication falls form the bed, injuring himself on the premisses. The injury resulted from an "ommission in health care" by the attending nurse, and should be covered as such.

Section 4): Repeals and reenacts AS21.88.050(b)(12) to extend coverage to a person, entity, or facility that renders health care services in the state under the supervision of a physician. Expanded coverage for health care providers such as "bush medicine teams" who don't ordinarily fall within the conventional definition.

Section 5: Repeals and reenacts AS21.88.080 (17): Major change allows for a sliding

scale" assessment levied upon insureds in the event that the earned premiums for any given year are less than the incurred claims, claim expenses, underwriting expenses, and reserves. Presently, by statute, the director of the Division of Insurance must assess 150% on the premiums for all insureds if the earned premiums fall beneath incurred claims and expenses. Although this condition has never occurred, if it were to happen in the future, and if the director determines there is sound actuarial basis for the extinguishment of the assessment, the director would be able to extinguish all or a portion of the assessment.

Section 6: Amends AS 21.88.900 (17)(a) Deletes the phrase (DURING THE SAME PERIOD OF CONTINUOUS COVERAGE) to provide consistency throughout the MICA statutes for the ability to offer "tail coverage" (retroactive insurance) to insureds to cover claims which occurred prior to MICA coverage.

Section 7: Relates to the purpose of the bill which would allow MICA to remain more competitive within the marketplace and better fulfill its obligations to the medical community.

Section 8: Amends section 21(b), CH 177, SLA 1978; Technical change to permit "tail coverage" through the deletion of the following language: (WHICH OCCUR AFTER THE EFFECTIVE DATE OF THIS ACT).

Additional Information: The Division of Insurance estimates there are 400 licensed physicians in the State, including part time and retired physicians. There are presently 137 MICA insured physicians, with 33 new enrollees this quarter, demonstrating more faith among the medical community in the program.

MEDICAL INDEMNITY CORPORATION OF ALASKA

(AS 21.88.030) 9 members; 4 physicians licensed in the state with no more than 2 of the physicians living in a municipality having a population of more than 100,000, and administrator or chief executive officer employed by a hospital, 2 professional insurance representatives, and 2 persons who are not health care providers or representatives of the insurance industry. 3-year terms, serve at the pleasure of the governor. CONTACT 276-0005

MEMBERS	REPLACING	APPT.	TERM
Mr. William Brock 1700 Angus Way Juneau, Alaska 99801 (Public)	Reappointed	79/07/09	82/07/01
Charles H. Rigden CHMN 6715 Blackberry Street Anchorage, Alaska 99502 (Chairman - Public)	Reappointed	80/06/26	83/07/01
Mr. David Frazier Bluefit Brokers 2636 Shepherdia Drive Anchorage, Alaska 99504 (Insurance)	Reappointed	79/06/09	82/07/01
David Gauman, M.D. 1919 Lathrop Fairbanks, Alaska 99701 (Physician)	Bruce J. Wolf M.D.	79/07/09	82/07/01
Lee Olson 4060 B Street, Suite 104 Anchorage, Alaska 99503 (Insurance)	Gregory A. Brown	80/06/28	83/07/01
James Baldauf, M.D. 3300 Pr ence Anchora Alaska 99504 (Physician)		77/12/08	81/07/01
Mr. James Burns Box 97 Auke Bay, Alaska 99821 (Administrator)	Charles Rigden (effective 79/09/10)	79/09/21	81/07/01
Estol R. Belflower, M.D. Box 3-3000 Juneau, Alaska 99801 (Physician)		78/07/20	81/07/01
Robert D. Whaley, M.D. 1546 Coffey Lane Anchorage, Alaska 99501 (Physician)	Reappointed	80/06/26	83/07/01

CONTACT AGENCY:
Division of Insurance, Department of Commerce and Economic Development
Pouch D, Juneau, AK 99811
(465-2515)
ID #1 (F-6)

COMMITTEE REPORT

SENATE

5/5/81

FURTHER: Finance

Date: 26 JANUARY 1982

Mr. President:

The Committee on LABOR & COMMERCE has had SB 548
Medical Indemnity Copp. of Alaska

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

2 cys.

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

Sec. 21.88.040. Corporation plan of operation. (a) Within 30 days after May 29, 1976, the board of governors shall prepare and submit to the director for approval a plan of operation which provides for the fair and reasonable administration of the affairs of the corporation and the discharge of the purposes for which it is created. The plan and any amendments to it become effective upon the director's approval. If the board of governors fails to submit a plan of operation, or if at a subsequent time the board of governors fails to submit suitable amendments to the plan, the director shall, after notice and hearing, adopt and promulgate a plan of operation or amendments which are necessary or advisable to carry out the provisions of this chapter. Adoption of the plan is not subject to the Administrative Procedure Act (AS 44.62).

(b) The plan of operation shall

(1) establish the procedures by which all the powers and duties of the corporation specified in AS 21.88.050 shall be performed;

(2) establish procedures for handling assets and discharging liabilities of the corporation;

(3) establish regular times and places for meetings of the board of governors;

(4) establish procedures for records to be kept of all financial transactions of the corporation, its agents, and the board of governors;

(5) establish the procedures for awarding contracts to carry out the provisions of this chapter;

(6) establish the procedures for issuing contracts of insurance as provided in AS 21.88.050 and for the determination of rates;

(7) contain additional provisions necessary for the execution of the powers and duties of the corporation. (§ 41 ch 102 SLA 1976)

Sec. 21.88.050. Powers and duties of the corporation. (a) The corporation shall

(1) in the form approved by the director, issue to all physicians and hospitals who are found to be acceptable risks under standards developed under (8) of this subsection, and who pay the premiums for it, a contract or contracts indemnifying physicians and hospitals and their employees who are health care providers against loss by reason of liability for covered claims for an act or omission in the delivery of professional health care in this state, and agreeing to tender on behalf of the physicians and hospitals and their employees who are health care providers a defense to a covered claim in a proceeding brought

under AS 09.55.530 — 09.55.560; the limits of liability for policies issued by the corporation shall be approved by the director; the contract shall cover the defense against but need not indemnify liability for punitive damages arising from a covered claim; at the option of the physician or hospital and for an additional premium the contract may cover claims against the physician or hospital that arise out of professional services performed by the physician or hospital for any period after December 31, 1974, if the coverage is issued before January 1, 1977, except that coverage will not be provided for a claim already filed or of which the physician or hospital had or reasonably should have had notice at the time the retroactive insurance was purchased;

(2) Repealed by § 40 ch 177 SLA 1978.

(3) Repealed by § 40 ch 177 SLA 1978.

(4) charge a premium for the protection provided by the contracts issued by the corporation which shall be determined by the board of governors in accordance with AS 21.88.080 and subject to the approval of the director;

(5) comply with or be subject to AS 21.06.090; 21.06.120; 21.06.140; 21.06.160; 21.06.250; 21.09.180; 21.09.190; 21.09.200; 21.09.250; 21.09.280; 21.12.020(b), (c), (d), and (e); and 21.18, 21.21, 21.24, and 21.36; and shall be exempt from participation as a member insurer in the Alaska Insurance Guaranty Corporation;

(6) carry out the obligations of the contracts issued by the corporation by defending all covered claims made against insured health care providers and by paying all liabilities which are finally adjudicated against the insured health care provider or which may in the opinion of the corporation reasonably be expected to be finally adjudicated against the health care provider to the extent of the contract obligation;

(7) Repealed by § 40 ch 177 SLA 1978.

(8) establish standards for the acceptability of risks; in establishing these standards the corporation may exclude an applicant for insurance based on individual risk selection factors, but may not exclude an applicant based only on the classification of the applicant.

(b) The corporation may

(1) employ or retain persons, individual or corporate, to discharge its obligations and pay reasonable compensation for these services; employees of the corporation are not considered state employees;

(2) negotiate for and procure reinsurance from private casualty insurers or reinsurers for any and all liability incurred by contracts issued by it;

(3) provide coverage to physicians and hospitals for other hazards when there is a finding by the director that this coverage is otherwise unavailable by reason of the operation of the corporation;

defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

Sec. 21.88.070. Statistics. The corporation shall collect, maintain and report information concerning claims against health care providers which it insures. The information shall be on forms prescribed by the director, and shall be sufficient to enable a proper determination of losses for rate making and to identify causes and sources of loss for loss control. At least annually the corporation shall report to the director the number and amount of claims filed, reserved, paid, settled and adjudicated during the year, the premiums paid to and the expenses incurred by the corporation during the year. This report shall be available to the public. The director may require that supplemental reports include the names of insured health care providers and the claimants; however, no reports which become available to the public may include the names of health care providers or claimants or information that will permit by inference the identity of specific health care providers or claimants. All statistics including the supplemental reports shall be made available to the State Medical Board. (§ 41 ch 102 SLA 1976; am § 14 ch 177 SLA 1978)

Effect of amendment. — The 1978 amendment added "which it insures" to the end of the first sentence, and in the sixth sentence, inserted "including the supplemental reports" and substituted "State Medical Board" for "appropriate licensing board or agency."

Editor's note. — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

Sec. 21.88.080. Rates. The rates and rating plans used by the corporation for the policies issued shall be determined by license category of health care providers in accordance with all of the following:

(1) Repealed by § 40 ch 177 SLA 1978.

(2) Repealed by § 40 ch 177 SLA 1978.

(3) a minimum rate may be set for each category of health care provider or discipline or classification within the license category;

(4) rates may not be excessive; rates are excessive if, after a period of time and with respect to an amount of gross premium which is actuarially credible, the premiums exceed losses incurred by the corporation, including losses paid, reserves for covered claims reported

and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(5) rates shall not be inadequate; rates are inadequate if, based on available actuarial data, the premiums to be paid by the health care providers are or may reasonably be expected to be insufficient to pay for losses incurred by the corporation, including covered claims paid, reserves for covered claims reported and unpaid, reserves for covered claims incurred during the policy period and not reported, and reasonable expenses for the operation of the corporation;

(6) rates may not be unfairly discriminatory;

(7) rates shall be adjusted annually;

(8) rates for any policy year shall be calculated to include the adjustment for actual experience of the corporation as developed for the preceding four policy years;

(9) in considering losses to be incurred, changes in the law, national, regional or local trends in medical negligence awards, and other relevant factors may be considered;

(10) income from the investment of reserves shall be considered;

(11) individual risk underwriting factors shall be considered;

(12) disciplines and classifications within the license categories of health care providers shall be considered;

(13) amounts sufficient for repayment of loan obligations shall be considered;

(14) Repealed by § 40 ch 177 SLA 1978.

(15) if the earned premiums of the corporation for any given year are less than the incurred claims, claim expense, underwriting expense, reserves for that year and provision for repayment of any loans, the corporation may, subject to the prior approval of the director, levy an assessment upon the insureds who held policies during that year; the assessment, which may be made in periodic installments, shall be made within three years and may not exceed 150 per cent of the insured's premium for that year; the termination of any policy does not relieve the insured of contingent liability for his proportionate share of the obligations to the corporation which accrued while the policy was in force;

(16) if the earned premiums of the corporation for any given year exceed its incurred claim expense, underwriting expense, reserves for that year and provision for repayment of any loan, the corporation may, subject to the prior approval of the director, apportion and pay or credit its insureds who held policies during that year; a payment or credit shall be proportionate to the insured's earned premium for that year;

(17) if the corporation develops a surplus of assets over all liabilities, including the repayment of any loan provision, which is at least equal to the minimum capital stock required of a new domestic stock insurer

other obligations of the corporation except that they shall be subordinated to obligations of policyholders and claimants for indemnity of loss; these loans shall be repaid within five years at an annual interest rate of six per cent.

(c) If a loan is made to the corporation from the fund, the corporation shall issue a note to the fund as evidence of the loan.

(d) The director may sell at par value to the Department of Revenue the notes, security instruments and pledge agreements held by the Department of Commerce and Economic Development as security for loans made under this section. The Department of Revenue shall purchase all the notes offered until the current principal amount of the notes purchased and held by the Department of Revenue equals $6,000,000. (§ 41 ch 102 SLA 1976; am §§ 17, 18 ch 177 SLA 1978; am § 6 ch 103 SLA 1980)

Effect of amendments. — Section 17, ch. 177, SLA 1978 substituted "seven per cent a year" for "four percentage points above the annual rate charged member banks for advances by the 12th federal reserve district" at the end of the first paragraph of subsection (b). Section 18 of ch. 177 substituted the language beginning "director determines" and ending "incurred by contracts issued by it" for "corporation adopts the approach of § 50(a)(3)(A) of this chapter" near the beginning of paragraph (2) of subsection (b).

The 1980 amendment substituted "earned" for "collected" near the middle of paragraph (1) of subsection (b).

Editor's note. — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

Article 5. General Provisions.

Section
900. Definitions

Sec. 21.88.900. Definitions. In this chapter

(1) Repealed by § 40 ch 177 SLA 1978.

(2) "corporation" means the Medical Indemnity Corporation of Alaska;

(3) "governor" means a member of the board of governors of the Medical Indemnity Corporation of Alaska;

(4) "health care provider" means a chiropractor licensed under AS 08.20; a dental hygienist licensed under AS 08.32; a dentist licensed under AS 08.36; a nurse licensed under AS 08.68; a dispensing optician licensed under AS 08.71; an optometrist licensed under AS 08.72; a

pharmacist licensed under AS 08.80; a physical therapist licensed under AS 08.84; a physician licensed under AS 08.64; a podiatrist; a psychologist and a psychological associate licensed under AS 08.86; and a hospital as defined in AS 18.20.130, including a governmentally owned or operated hospital; a corporate entity covered under AS 21.88.050(b)(12); and an employee of a health care provider acting within the course and scope of his employment;

(5) "physician" means a person licensed under AS 08.64;

(6) "hospital" means an institution licensed under AS 18.20;

(7) "chiropractor" means a person licensed under AS 08.20;

(8) "dental hygienist" means a person licensed under AS 08.32;

(9) "dentist" means a person licensed under AS 08.36;

(10) "nurse" means a person licensed under AS 08.68;

(11) "dispensing optician" means a person licensed under AS 08.71;

(12) "optometrist" means a person licensed under AS 08.72;

(13) "pharmacist" means a person licensed under AS 08.80;

(14) "physical therapist" means a person registered under AS 08.84;

(15) "psychologist" and "psychological associate" means a person licensed under AS 08.86.

(16) "continuous coverage" means one or more successive policy periods which is uninterrupted by cancellation or failure to renew for any reason;

(17) "covered claim" means

(A) a claim by an injured patient reported to the corporation during the period of continuous coverage by the corporation of the insured health care provider for an act or omission in the delivery of health care services during the same period of continuous coverage; and

(B) additional claims as defined in the policy, with the prior approval of the director, and which are reported within specified periods after the expiration of the policy. (§ 41 ch 102 SLA 1976; am §§ 19, 20, 40 ch 177 SLA 1978)

Effect of amendment. — Section 19, ch. 177, SLA 1978 rewrote paragraph (4). Section 20 of ch. 177 added paragraphs (16) and (17). Section 40 of ch. 177, SLA 1978 repealed paragraph (1), which defined "association."

Editor's note. — As to the purpose of the 1978 amendatory act, see § 1, ch. 177, SLA 1978 in the 1978 Temporary and Special Acts and Resolves.

Section 21, ch. 177, SLA 1978 provides: "(a) The coverage obligations and duties of the insured under policies issued by the Medical Indemnity Corporation of Alaska before the effective date of this Act may not be breached without the consent of the Medical Indemnity Corporation of Alaska and the director of the division of insurance.

"(b) All policies issued by the Medical Indemnity Corporation of Alaska and in force on the effective date of this Act are terminated as of the first annual renewal of the in-force policy after the effective date of this Act. A person purchasing a policy for any term beginning after the effective date of this Act shall be issued a policy to cover only 'covered claims' as defined in AS 21.88.900(17), added in sec. 19 of this Act, which occur after the effective date of this Act."

his own name against the officer and his sureties to recover the amount to which he may be entitled. (§ 16.01 ch 101 SLA 1962)

Am. Jur. reference.—50 Am. Jur., Suretyship, §§ 27, 28.

Sec. 09.55.480. Subsequent actions on same undertaking. A judgment in favor of a party for one delinquency does not preclude the same or another party from maintaining another action on the same undertaking or other security for another delinquency. (§ 16.02 ch 101 SLA 1962)

Sec. 09.55.490. Amount of judgment. In an action upon an official undertaking or other security, if judgment has already been recovered against the surety therein other than by confession equal in the aggregate to the penalty or a part of the penalty of the undertaking or other security and if the recovery be established on the trial, judgment shall not be given against the surety for an amount exceeding the penalty or such portion of the penalty as is not already recovered against him. (§ 16.03 ch 101 SLA 1962)

Sec. 09.55.500. Actions for fines or forfeitures. Fines and forfeitures may be recovered by an action in the name of the state or the officer or person to whom they were given by law, or in the name of the state, officer, or person who is authorized to prosecute for them. (§ 16.04 ch 101 SLA 1962)

Sec. 09.55.510. Amount which may be claimed and recovered. When an action is commenced for a penalty which by law is not to exceed a certain amount, the action may be commenced for that amount, and, if the judgment is given for the plaintiff, it may be for that amount or less, in the discretion of the court, in proportion to the offense. (§ 16.05 ch 101 SLA 1962)

Sec. 09.55.520. Collusive judgment not a bar to another action. Recovery of a judgment for a penalty or forfeiture obtained by collusion between the plaintiff and defendant with intent to save the defendant wholly or partially from the consequence contemplated by law in cases where penalty or forfeiture is given wholly or partly to the person who prosecutes, does not bar the recovery of a penalty or forfeiture by another person in a separate action. (§ 16.06 ch 101 SLA 1962)

Article 6. Malpractice Actions.

Section
530. Declaration of purpose
540. Burden of proof
550. Jury instructions

Sec. 09.55.530. Declaration of purpose. The legislature considers that there is a need in Alaska to codify the law with regard

to medical liability in order to establish that the law in Alaska in this regard is the same as elsewhere. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Sec. 09.55.540. Burden of proof. (a) In a malpractice action based on the negligence of a physician licensed under AS 08.64, or a dentist licensed under AS 08.36, the plaintiff shall have the burden of proving

(1) the degree of knowledge or skill possessed or the degree of care ordinarily exercised by physicians or dentists practicing the same specialty in similar communities to that in which the defendant practices;

(2) that the defendant either lacked this degree of knowledge or skill or failed to exercise this degree of care; and

(3) that as a proximate result of this lack of knowledge or skill or the failure to exercise this degree of care the plaintiff suffered injuries that would not otherwise have been incurred.

(b) In malpractice actions there shall be no presumption of negligence on the part of the defendant. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Requirements of surgeon's report. —It is incumbent upon a surgeon to describe accurately and fully in his report of an operation everything of consequence that he did and which his trained eye observed during an operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

To have maximum probative force, the report should be dictated immediately after the operation. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Informing patient of hazards of operation.—There is good law in support of the argument that a doctor need not inform the patient of all the hazards involved in an operation; that doctors frequently tailor the extent of their preoperative warnings to the particular patient to avoid the unnecessary anxiety and apprehension which such apprnisal might arouse in the mind of the patient. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Absence of surgeon's personal recollection or of recorded facts no defense.—Under the circumstances of the instant case, the court would not permit the absence of a surgeon's personal recollection or of recorded facts to serve as a defense in an action for malpractice. Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964).

Prima facie case of negligence.—See Patrick v. Sedwick, Sup. Ct. Op. No. 206 (File No. 314), 391 P.2d 453 (1964)

Failure of trial court to make finding of lack of informed consent was not clearly erroneous. Patrick v. Sedwick, Sup. Ct. Op No. 206 (File No. 314), 391 P.2d 453 (1964).

Sec. 09.55.550. Jury instructions. In medical malpractice actions the jury shall be instructed that the plaintiff has the burden of proving, by a preponderance of the evidence, the negligence of the physician or dentist. The jury shall be further instructed that in-

jury alone does not raise a presumption of the physician's or dentist's negligence. (§ 1 ch 49 SLA 1967)

Legislative committee report.—For report on ch. 49, SLA 1967 (CSSB 142), see 1967 House Journal, p. 492.

Article 7. Actions by or Against Deceased Persons.

Section
570. All causes of action survive
580. Action for wrongful death

Sec. 09.55.570. All causes of action survive. All causes of action by one person against another, whether arising on contract or otherwise, except those involving defamation of character, survive to the personal representatives of the former and against the personal representatives of the latter, but this shall not be construed so as to abate an action for a wrong where any party has died after the verdict or to defeat or prejudice the right of action given by AS 09.15.010. The personal representatives may maintain an action thereon against the party against whom the cause of action accrued, or, after his death, against his personal representatives. (§ 4 ch 78 SLA 1972; am § 34 ch 56 SLA 1973)

Revisor's note (1972).—This section was taken from former AS 13.20.330 which, in turn, was taken from § 61-7-1, ACLA 1949, as amended.

Effect of amendment. — The 1973 amendment substituted "personal representatives" for "executors or administrators" in the second sentence.

Legislative committee report.—For report on ch. 56, SLA 1973 (HCS SB 140), see 1973 Senate Journal Supplement No. 9; 1973 House Journal, p. 819.

Legislative intent. — The intent of the legislature inferred from the 1949 amendment to this section, is that actions no longer abate when the wrongdoer dies, but do abate when the injured party succumbs from noncausally connected matters. O'Dey v. Matson, 17 Alaska 763 (1958).

Section 43-3-10, ACLA 1949, did not repeal by implication this section and AS 13.20.340. Andersen v. Pacific S.S. Co., 8 Alaska 291 (1931).

Am. Jur. reference. — 1 Am. Jur., Abatement and Revival, § 68 et seq.

Sec. 09.55.580. Action for wrongful death. (a) When the death of a person is caused by the wrongful act or omission of another, the personal representatives of the former may maintain an action therefor against the latter, if the former might have maintained an action, had he lived, against the latter for an injury done by the same act or omission. The action shall be commenced within two years after the death, and the damages therein shall be such damages as the court or jury may consider fair and just, and the amount recovered, if any, shall be exclusively for the benefit of the decedent's husband or wife and children when he or she leaves a husband, wife or children, him or her surviving, or other dependents. When the decedent leaves no husband, wife or children surviving him or her or other dependents, the amount recovered

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 548

Title An act relating to the medical indemnity corporation of Alaska -

Requested by Colletta Date 5/5/81

(as.21.88

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Division of Insurance

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS, CLAIMS, ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE May 12,1981 PREPARED BY Kenneth C. Moore Director of Insurance

AGENCY Commerce & Economic Development

PHONE 465-2515

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

SB

552

COMMITTEE REPORT

SENATE

5/6/81

FURTHER: Finance

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had SB 552 employment practices and working conditions

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Zeigler
Lockenkamp
Bob McCarthy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob McCarthy
CHAIRMAN

S 6C (Rev. 12/78)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an over view of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeaner) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Divsion of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertantly passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Committee Meeting Minutes: 27 May, 1981

The Senate Labor and Commerce Committee meeting was called to order by Senator Mulcahy at 3:04pm, and the first item of business was HB 314am. Representative Haugen, sponsor of the bill, provided testimony on the bill, and Senator Fahrenkamp made a motion to move the bill with individual recommendations.

Senator Mulcahy brought up HB 274, and a motion was made by Senator Fahrenkamp that the bill be moved from committee with individual recommendations.

Chairman Mulcahy brought up CS SB 318, and a motion was made by Senator Fahrenkamp that the bill be moved with individual recommendations.

The final piece of legislation addressed at the meeting was CS SB 552 and after brief discussion by committee members, a motion was made by Senator Fahrenkamp that CS SB 552 move from committee with individual recommendations. The committee meeting was adjourned at 3:14pm.

(17) any driver employed by an employer engaged in the business of operating taxicabs; or

(18) Repealed. Pub.L. 93–259, § 16(c), Apr. 8, 1974, 88 Stat. 65.

(19) Repealed. Pub.L. 93–259, § 16(b), Apr. 8, 1974, 88 Stat. 65.

(20) any employee of a public agency who in any workweek is employed in fire protection activities or any employee of a public agency who in any workweek is employed in law enforcement activities (including security personnel in correctional institutions), if the public agency employs during the workweek less than 5 employees in fire protection or law enforcement activities as the case may be; or

(21) any employee who is employed in domestic service in a household and who resides in such household; or

(22) Repealed. Pub.L. 95–151, § 5, Nov. 1, 1977, 91 Stat. 1249.

(23) Repealed. Pub.L. 93–259, § 10(b)(3), Apr. 8, 1974, 88 Stat. 64.

(24) any employee who is employed with his spouse by a nonprofit educational institution to serve as the parents of children—

(A) who are orphans or one of whose natural parents is deceased, or

(B) who are enrolled in such institution and reside in residential facilities of the institution,

while such children are in residence at such institution, if such employee and his spouse reside in such facilities, receive, without cost, board and lodging from such institution, and are together compensated, on a cash basis, at an annual rate of not less than $10,000; or

(25) Repealed. Pub.L. 95–151, § 6(a), Nov. 1, 1977, 91 Stat. 1249.

(26). Repealed. Pub.L. 95–151, § 7(a), Nov. 1, 1977, 91 Stat. 1250.

(27) any employee employed by an establishment which is a motion picture theater; or

(28) any employee employed in planting or tending trees, cruising, surveying, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by his employer in such forestry or lumbering operations does not exceed eight; or

(29) any employee of an amusement or recreational establishment located in a national park or national forest or on land in the National Wildlife Refuge System if such employee (A) is an employee of a private entity engaged in providing services or facilities in a national park or national forest, or on land in the National Wildlife Refuge System, under a contract with the Secretary of the Interior or the Secretary of Agriculture, and (B) receives compensation for employment in excess of fifty-six hours in any workweek at a rate not less than one and one-half times the regular rate at which he is employed.

(c)(1) Except as provided in paragraph (2) or (4), the provisions of section 212 of this title relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he is so employed, if such employee—

(A) is less than twelve years of age and (i) is employed by his parent, or by a person standing in the place of his parent, on a farm owned or operated by such parent or person, or (ii) is employed,

ficiency and general well-being of workers against the unfair competition of wage and hour standards which do not provide adequate standards of living. (§ 1 ch 171 SLA 1959)

Am. Jur., ALR and C.J.S. references.—31 Am. Jur., Labor, §§ 774 to 807, 813 to 816.

What employees are within "hours of labor" statutes, 16 ALR 537.

Constitutionality of statute limiting hours of labor in private industry, 90 ALR 814.

Waiver or loss of statutory right as to maximum hours of labor, 102 ALR 842; 129 ALR 1145.

56 C.J.S. Master and Servant § 17.

Sec. 23.10.055. Exemptions. Sections 50—150 of this chapter do not apply to

(1) an individual employed in agriculture which includes farming in all its branches and, among other things, includes the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural or horticultural commodities, the raising of livestock, bees, fur-bearing animals, or poultry, and any practices (including forestry and lumbering operations) performed by a farmer or on a farm as an incident to or in conjunction with the farming operations, including preparation for market, delivery to storage or to market or to carriers for transportation to market;

(2) an individual employed in the catching, trapping, cultivating or farming, netting or taking of any kind of fish, shellfish, or other aquatic forms of animal and vegetable life;

(3) an individual employed in the hand picking of shrimp;

(4) an individual employed in domestic service (including a baby-sitter) in or about a private home;

(5) an individual employed by the United States or by the state or political subdivision of the state;

(6) an individual engaged in the activities of a nonprofit religious, charitable, cemetery or educational organization where the employer-employee relationship does not, in fact, exist, and where services rendered to the organization are on a voluntary basis;

(7) an employee engaged in the delivery of newspapers to the consumer;

(8) an individual employed solely as a watchman or caretaker of a plant or property that is not in productive use for a period of four months or more;

(9) an individual employed in a bona fide executive, administrative or professional capacity or in the capacity of an outside salesman or a salesman who is employed on a straight commission basis;

(10) an individual employed in the search for placer or hard rock minerals; or

(11) an individual under 18 years of age employed on a part-time basis not more than 30 hours in a week. (§ 2(1) ch 171 SLA 1959; am § 1 ch 2 SLA 1962; am § 1 ch 50 SLA 1972)

Effect of amendment. — The 1972 amendment, effective July 1, 1972, inserted "placer or hard rock" in paragraph (10) and deleted "of economic value" preceding "or" in that paragraph.

Sec. 23.10.060. Payment for overtime. No employer who employs employees engaged in commerce, or other business, or in the production of goods or materials in Alaska may employ an employee not acting in a supervisory capacity, either male or female, for a workweek longer than 40 hours or for more than eight hours a day, except that if the employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid, and this provision is considered included in all contracts of employment. This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as regular course of business is defined by regulations of the commissioner;

(2) an employee employed in a bona fide executive, administrative, or professional capacity or in the capacity of outside salesman, as the terms are defined by regulations of the commissioner;

(3) Repealed by § 1 ch 243 SLA 1970, effective October 31, 1970.

(4) an employee employed in handling, packing, storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(5) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(6) Repealed by § 1 ch 45 SLA 1972.

(7) an employee engaged in agriculture;

(8) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(9) a switchboard operator employed in a public telephone exchange which has fewer than 750 stations;

(10) an employee of an employer engaged in the business of operating taxicabs;

SB
579

STATE OF ALASKA

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

December 14, 1981

The Honorable Bob Mulcahy
Chairman, Senate Labor
and Commerce Committee
Pouch V
Juneau, Alaska 99811

Attention: Michael Thill

Dear Senator Mulcahy:

Please find enclosed the fiscal note and position paper on SB 579 requested by your Committee November 9, 1981.

If I can provide additional information or offer any further assistance to you or your staff, please do not hesitate to contact me at 465-4705.

Sincerely,

Richard Aks
Deputy Commissioner

cc: The Honorable Pat Rodey
The Honorable Terry Stimson
The Honorable Don Bennett
The Honorable Bettye Fehrenkamp
The Honorable Jalmar Kerttula
The Honorable Brad Bradley

Keith Specking, Legislative Assistant
Office of the Governor

Ron Lehr, Director, Budget and Management
Office of the Governor

21-P2LH

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER

POUCH B
JUNEAU, ALASKA 99811
PHONE: (907) 465-4700

Position Paper on Senate Bill 579

SB 579 will expand the lending activities of the Housing Assistance Division to include housing loans for homes located on homesite and open to entry lands where clear title has not yet been acquired by the borrower.

In general the Department supports the intent of t legislation. The need for lending on these lands was clearly established during public hearings held by the Housing Assistance Division during the first quarter of 1981.

The Department would point out that the goal of this legislation could be accomplished by amending restrictions contained in AS 44.47.420 to allow use of funds appropriated to the nonconforming housing loan fund for home loans on homesite or open to entry lands. Specifically, AS 44.47.420(b) could be amended by adding a new subsection (3) stating:

> (3) by providing a letter of intent signed by an authorized representative of the Department of Natural Resources which shows that title to the homesite will be transferred from the State to the borrower if the borrower fulfills the requirements of AS 38.08.060.

Losses which occur pursuant to this amendment could be covered by the Restricted Title Loss Reserve Account created in AS 44.47.430. A further minor amendment would be required for this purpose. Both of these changes would be enacted under Section 3 of SB 579.

The Department raises the question of access roads, electrical distribution lines and water/sewer systems related to homes constructed on homesite and open to entry lands. Many times these homes will be located on land which is unconnected to existing road or utility systems. The Department suggests that the Legislature may want to consider a supplemental loan for these purposes.

In order for the program to be successful, the Department of Natural Resources must assure that surveys of homesite or open to entry lands be conducted in a timely manner.

The Department would like to point out that any additional general fund appropriations required by enactment of SB 579 must be considered in the context of the Governor's program to control government spending and enact a Constitutional spending limit.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 579 of May 27, 1981
Title An Act Relating to Homesite Habitable Dwelling Loan Guarantees
Requested by Senate Labor and Commerce Committee Date 12/14/81

II. FISCAL DETAIL
Agency Affected Community and Regional Affairs
Program Category Affected Economic Development
BRU, Program, or Subprogram(s) Affected Housing Assistance Programs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			63.8			
200 TRAVEL			18.0			
300 CONTRACTUAL			20.4			
400 COMMODITIES			2.4			
500 EQUIPMENT			3.6			
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL						

FUNDING (Thousands of Dollars)

GENERAL FUND			108.2			
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME			2			
PART TIME						
TEMPORARY						

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

This analysis is based on a guaranteed mortgage fund administered by the Department of Revenue with the actual mortgage purchase funds available from monies allocated directly to the Housing Assistance Division for either direct loans originated by the division or loans purchased from private lenders.

It is estimated that 90% of the loan requests will be for original loans for initial new construction and 10% will be for completion of housing units where construction had started but was stopped due to lack of money to complete the houses. Based on the response received while holding public

IV. DATE 12/14/81 PREPARED BY Jack Smodey
AGENCY Community and Regional Affairs
PHONE (907) 272-4585

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

hearings on the Housing Assistance regulations, January through March 1981, it is anticipated that requests for approximately 150 to 180 new construction loans and 30 to 50 rehabilitation or completion loans could be anticipated. These loans would range between $30,000 and $149,000.

This demand will increase the funding level need by the Division by approximately $12 million.

The request for two full time positions is based on establishing a field office in Southeast consisting of one Loan Officer II and one Clerk Typist III. The need for this office is based on numerous requests from this area and the anticipated high number of loan requests for homesite and open to entry lands.

This program will have both a social and economic impact by providing additional housing units and private additional construction work throughout the State.

The anticipated costs for a Southeast office are as follows:

Personnel Services			
Clerk Typist III	Range 8	$16,716	
Loan Examiner III	Range 17	$29,460	
Related fringe benefits and salary increases		$17,635	
			$63,811
Travel			
To 18 Southeast communities 3 times annually		$15,300	
5 trips to Anchorage headquarters		$ 2,700	
			$18,000
Contractual Services			
Communication		$ 3,700	
Printing & Advertising		3,000	
Equipment Maintenance		900	
Equipment Rental			
WANG		2,400	
Other		2,000	
Rent		5,400	
Other fees and services		3,000	
			$20,400
Commodities			$ 2,400
Equipment			
2 desks		$ 800	
2 chairs		250	
2 bookcases		215	
2 file cabinets		400	
2 conference chairs		350	
2 calculators		500	
Other misc. equipment		1,000	
			$ 3,565
		Total	$108,176

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 579:

Establishes a 'homesite habitable dwelling loan guarantee account' in the general fund to guarantee loans made by private financial institutions to construct "habitable dwellings" on homesite entry land. Before the state guarantees a loan the bank must determine, to the satisfaction of the commissioner of revenue, that the borrower is able to repay the loan, and the borrower must sign a letter of intent signed by a representative of DNR which shows that title to the homesite will be transferred from the state to the borrower upon fulfilling the requirements of the homesite program. A loan must be for the construction and purchase of a habitable, permanent, single-family dwelling which meets the state requirements, and may not exceed the greater of 90% of the appraised value of the dwelling or an amount equal to the maximum principal amount of mortgage loans for single family dwellings which may be purchased by AHFC or the division of housing assistance in C&RA. Loans may be secured by acceptable collateral, including the homesite entry permit, and may not be for a term longer than 30 years.

During construction, the guarantee extends only to the principal balance of the loan, but after it covers both the principal and the accrued interest. The construction phase is limited to two years. The state may not guarantee a loan if the balance of the loan guarantee account is less than 10% of the total unpaid balance of outstanding loans guaranteed. Guarantee extends to a successor of a bank which makes the loan. Guarantee terminates when when the loan is repaid or when he receives his patent to the homesite; whichever occurs first.

Allows the director of housing assistance in the Dept of C&RA to use money in the nonconforming housing loan fund to purchase or participate in the purchasing of loans guaranteed under the provisions of this bill.

Sec. 44.47.380. Nonconforming housing loan fund. There is created in the Department of Community and Regional Affairs the nonconforming housing loan fund consisting of money appropriated to it by the legislature. The director shall administer the nonconforming housing loan fund in accordance with AS 44.47.360 — 44.47.560 and shall use the money in the nonconforming housing loan fund to purchase or participate in the purchase of

(1) nonconforming housing mortgage loans;

(2) loans made for building materials for nonconforming housing;

(3) loans made for renovations or improvements to nonconforming housing. (§ 73 ch 106 SLA 1980)

Sec. 44.47.390. Limitations on use of nonconforming housing loan fund. The director may not use the money in the nonconforming housing loan fund to

(1) purchase or participate in the purchase of a nonconforming housing mortgage loan which exceeds the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount;

(2) purchase or participate in the purchase of a loan made for building materials for nonconforming housing

(A) which exceeds

(i) 80 percent of the appraised value of the work completed on the nonconforming housing for which the loan is made if the nonconforming housing is pledged as collateral for the loan; or

(ii) 80 percent of the value of other property which is pledged as security for the loan and which is satisfactory to the director as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the director, at the expense of the borrower; and

(C) unless the period of time allowed for repayment of the loan is equal to or less than the lesser of

(i) three years; or

(ii) the maximum period of time established by regulation by the director based on the prevailing practice among private financial institutions in the general area in which the loan is made for loans for the purchase of building materials;

(3) purchase or participate in the purchase of a nonconforming housing mortgage loan which is secured by real property the marketable title to which is shown in accordance with AS 44.47.420(b)(2) if the total amount of outstanding nonconforming housing mortgage loans held by the division exceeds 10 times the amount of money in the restricted title loss reserve account (AS 44.47.430);

Sec. 44.47.400. Security for loans. (a) The director shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62) establishing acceptable security for loans purchased in whole or in part under AS 44.47.380.

(b) A person may pledge as security for the repayment of a loan purchased in whole or in part under AS 44.47.380 a preference right he holds to receive title to land he occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. §§ 1601 — 1626, as amended by P.L. 94-204) before it may be pledged as security under this subsection. The commissioner of community and regional affairs shall prescribe procedures and standard forms for establishing, pledging, and appraising the value of a preference right held by a person to secure the repayment of a loan purchased in whole or in part under AS 44.47.380. (§ 73 ch 106 SLA 1980)

Sec. 44.47.410. Interest on loans. The interest rate on a mortgage loan purchased in whole or in part under AS 44.47.380 may not exceed

(1) nine percent for a mortgage loan made to a person who is an eligible veteran under AS 18.56.101;

(2) ten percent for a mortgage loan made to a person other than a person described in (1) of this subsection. (§ 73 ch 106 SLA 1980)

Sec. 44.47.420. Title. (a) Before the director purchases a nonconforming housing mortgage loan in whole or in part, the director may require a borrower to show marketable title to real property offered as security for the loan to be purchased.

(b) A borrower may show marketable title to real property for the purposes of (a) of this section

(1) by purchasing title insurance from a title insurance company authorized to do business in the state; or

(2) by delivering to the director a copy of a letter of intent signed by an authorized representative of the United States Department of the Interior which shows the transfer of title to the property from the United States government to the borrower if

(A) the borrower is an Alaska Native; and

(B) title to the property was originally transferred from the United States government, directly or indirectly, to the borrower under federal law.

(c) For the purposes of this section, a deed which federal law prohibits or limits the power to transfer or encumber and which would otherwise constitute marketable title to real property is considered

the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980)

Editor's note. — Section 76, ch. 106, SLA 1980 provides: "By January 21, 1981, the director of the division of housing assistance (AS 44.47.360) shall prepare and submit to the legislature to report on the effect of the marketable title requirements of AS 44.47.420 enacted by sec. 73 of this Act and shall include in the report any recommendations he considers appropriate."

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming housing loan fund. (§ 73 ch 106 SLA 1980)

Sec. 44.47.440. Fire insurance. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may require the borrower to agree to purchase and maintain fire insurance for the real property for which the loan is made in an amount not less than the outstanding principal balance of the loan. (§ 73 ch 106 SLA 1980)

Sec. 44.47.460. Loan servicing. Before purchasing or participating in the purchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased. Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated fee on the division's share of the loan. The private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent. (§ 73 ch 106 SLA 1980)

Sec. 44.47.470. Appraisals. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73 ch 106 SLA 1980)

Sec. 44.47.475. Energy audit [illegible]

Sec. 44.47.480. Toll-free telephone number. The director shall arrange for and maintain a toll-free telephone number for the division so that private financial institutions and their borrowers may contact the division from any location in the state by telephone without a toll charge. (§ 73 ch 106 SLA 1980)

Sec. 44.47.490. Assistance by division personnel. (a) The director shall hire at least one lending officer and shall contract for the services of

(1) real property appraisers who are familiar with rural construction; and

(2) engineers who are familiar with engineering problems in arctic and subarctic regions.

(b) The personnel described in (a) of this section shall make regular visits to each of the regions established under AS 44.47.510(a) to provide preconstruction and post-construction inspections of real property for which loans are purchased by the division in whole or in part under AS 44.47.380 and to provide assistance to private financial institutions and their borrowers in the regions. (§ 73 ch 106 SLA 1980)

Sec. 44.47.500. Demonstration projects and information. The director may enter into agreements with public and private agencies to provide demonstration projects and information concerning housing construction in each of the regions established under AS 44.47.510(a). (§ 73 ch 106 SLA 1980)

Sec. 44.47.510. Regional allocation. (a) The commissioner of community and regional affairs, by regulations adopted in accordance with the Administrative Procedure Act (AS 44.62), shall establish and may amend the boundaries of reasonably compact and contiguous regions in the state.

(b) Unless otherwise required by an appropriation, the director shall allocate the money in the nonconforming housing loan fund among the regions established under (a) of this section for the purpose of purchasing each type of loan described in AS 44.47.380. In making an allocation under this subsection, the director shall consider the past and potential lending activity of private financial institutions in the region as well as the need for loans in the region. The director may reallocate the money among the regions as he considers necessary. (§ 73 ch 106 SLA 1980)

Sec. 44.47.560. Definitions. In AS 44.47.360 — 44.47.560,

(1) "director" means the director of the division of housing assistance;

(2) "division" means the division of housing assistance;

(4) "nonconforming housing" means housing which does not conform to minimum building standards under any state or federal program that provides loans for housing purchases. (§ 73 ch 106 SLA 1980)

Article 10. Local Boundary Commission.

Section	Section
565. Local boundary commission	575. Quorum
567. Powers and duties	577. Boundary change
569. Meetings and hearings	579. Expenses
571. Minutes and records	581. Hearings on boundary changes
573. Notice of public hearings	583. When boundary change takes effect

Sec. 44.47.565. Local boundary commission. There is in the Department of Community and Regional Affairs a local boundary commission. The local boundary commission consists of five members appointed by the governor for overlapping five-year terms. One member shall be appointed from each of the four major senatorial election districts and one from the state at large. The member appointed from the state at large is the chairman of the commission. (§ 7 ch 64 SLA 1959; am § 5 ch 200 SLA 1972)

Cross references. — For further provisions relating to the Local Boundary Commission and to annexation by local action, see AS 29.68.010. As to appointment, qualifications, and terms of office of members of departmental boards, councils, or commissions, see AS 39.05.060.

Editor's note. — This section derives from AS 44.19.250 and was renumbered by the revisor under 01.05.031.

When constitutional provision effective. — The method for making boundary changes, contemplated by art. X, § 12, of the Alaska Constitution, was operative upon the enactment of AS 44.19.250 and 44.19.260. Fairview Pub. Util. Dist. No. 1 v. Anchorage, Sup. Ct. Op. No. 61 (File Nos. 69, 71), 368 P.2d 540 (1962), cert. denied, 371 U.S. 5, 83 S. Ct. 39, 9 L. Ed. 2d 49 (1962).

Cited in Mobil Oil Corp. v. Local Boundary Comm'n, Sup. Ct. Op. No. 989 (File No. 1947), 518 P.2d 92 (1974).

Sec. 44.47.567. Powers and duties. (a) The local boundary commission shall

(1) make studies of local government boundary problems;

(2) develop proposed standards and procedures for changing local boundary lines;

(3) consider a local government boundary change requested of it by the legislature, the commissioner of community and regional affairs, or a political subdivision of the state; and

(4) develop standards and procedures for the extension of services and ordinances of incorporated cities into contiguous areas for limited purposes upon majority approval of the voters of the contiguous area to be annexed and prepare transition schedules and prorated tax mill

(b) The local boundary commission may

(1) conduct meetings and hearings to consider local government boundary changes and other matters related to local government boundary changes, including extensions of services by incorporated cities into contiguous areas and matters related to extension of services; and

(2) present to the legislature during the first 10 days of a regular session proposed local government boundary changes, including gradual extension of services of incorporated cities into contiguous areas upon a majority approval of the voters of the contiguous area to be annexed and transition schedules providing for total assimilation of the contiguous area and its full participation in the affairs of the incorporated city within a period not to exceed five years. (§ 7 ch 64 SLA 1959; § 2 ch 45 SLA 1960; am §§ 1, 2 ch 55 SLA 1964; am §§ 1, 2 ch 161 SLA 1966; am § 6 ch 200 SLA 1972)

Cross reference. — For further statement of powers of local boundary commission, see Alaska Constitution, art. X, § 12.

Editor's note. — This section derives from AS 44.19.260 and was renumbered by the revisor under 01.05.031.

Section 9, ch. 200, SLA 1972, provides: "Where the titles 'Local Affairs Agency' or 'Rural Development Agency' appear in the law of this state, they shall be read as the 'Department of Community and Regional Affairs.'"

Section 11, ch. 200, SLA 1972, provides: "All litigation, hearings, investigations and other proceedings pending under a law amended or repealed or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding a transfer or amendment or repeal provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended or repealed by this Act or functions which may be transferred by this Act, remain in effect for the term issued, until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by a law amended or repealed by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1972, remain in effect until revoked, or modified under the provisions of this Act. Appropriations, records, equipment and other property of agencies of the other money available and to become available to agencies the functions, powers and duties of which have been transferred to the Department of Community and Regional Affairs established under this Act shall be available for the objects and purposes for which appropriated or otherwise made available, subject to the terms, restrictions, limitations or other requirements imposed under this section or federal law."

Legislative history report. — For legislative history report on ch. 161, SLA 1966, see House Journal (1966), p. 575.

Powers and duties of local boundary commission. — When grouped together, the powers and duties of the local boundary commission are as follows: (1) To consider any local government boundary change (§ 12, art. X, Alaska Constitution); (2) to present proposed changes to the legislature (§ 12, art. X, Alaska Constitution; § 7, ch. 64, SLA 1959); (3) (subject to law) to establish procedures whereby boundaries may be adjusted by local action (§ 12, art. X, Alaska Constitution); (4) to make studies of local government boundary problems (§ 7, ch. 64, SLA 1959); (5) to develop proposed standards and procedures for changing local boundary lines (§ 7, ch. 64, SLA 1959); (6) to hold hearings on proposed boundary changes (§ 7, ch. 64, SLA 1959). 1959 Op. Att'y Gen., No. 30.

The local boundary commission has the power and authority to recommend

Sec. 38.08.060. Issuance of patent. (a) A person who enters upon homesite entry land under a permit issued by the director shall be issued a patent to the land conveying an unencumbered title if that person

(1) occupies the land for a cumulative total of 21 months within the three-year period following issuance of the homesite entry permit, or five months with 20 years Alaskan cumulative residence;

(2) erects a habitable, permanent, single-family dwelling on the homesite, which meets all applicable state and local regulations, within three years of the date of issuance of the homesite entry permit; for the purposes of this paragraph, mobile homes are not considered to be permanent dwellings unless they are placed on a permanent foundation;

(3) reimburses the state for the survey and platting undertaken in accordance with this chapter; the director shall provide by regulation for installment payments of this reimbursement.

(b) Nothing in this chapter shall be construed to prohibit a person issued a homesite entry permit from residing in a temporary habitable dwelling on the homesite until revocation of the homesite entry permit.

(c) No person may be issued more than one patent during his lifetime, nor may any person who is a member of a patent holder's household be issued a patent while a member of the patent holder's household.

(d) If a dwelling is found to have been substantially completed under § 100 of this chapter, patent shall be issued upon completion of the dwelling, notwithstanding (a) (2) of this section. (§ 2 ch 142 SLA 1977)

Sec. 38.08.070. Land located within municipalities. No state land which is located within the boundaries of an organized borough or city may be classified for homesite entry under this chapter until the proposed use of the land has been studied and approved jointly by the director and the local planning authority. Nothing in this section or AS 29.18.190 prevents the director from selecting and classifying for homesite entry land which would otherwise be available for borough or city selection under AS 29.18.190. If classified for homesite entry, the land shall not be available for city or borough selection. (§ 2 ch 142 SLA 1977)

Sec. 38.08.080. Required zoning. No state land which is located within the boundaries of a municipality which exercises planning and zoning authority under AS 29 may be offered by the director for homesite entry under this chapter until the land has been zoned by the governing body of the municipality for residential use only. No state land which is located within a municipality which does not exercise planning and zoning authority, or which is located in the unorganized borough, may be offered by the director for homesite entry under this chapter unless the division of lands has adopted zoning regulations to

Sec. 38.08.090. Disclaimer of intent to provide services. Nothing in this chapter obligates the state to provide services to land which is the subject of homesite entry and patent. (§ 2 ch 142 SLA 1977)

Sec. 38.08.100. Substantial completion of dwelling. An entry permit may not be revoked for failure to erect a dwelling in the time required under § 60(a)(2) of this chapter if the director finds that erection of the dwelling has been substantially completed and progress toward completion is being made at the expiration of the time required. (§ 2 ch 142 SLA 1977)

Sec. 38.08.110. Regulations. The commissioner shall adopt regulations in accordance with AS 44.62.180 — 44.62.290 to carry cut the purposes of this chapter. (§ 2 ch 142 SLA 1977)

Sec. 38.08.120. Definitions. In this chapter

(1) "commissioner" means the commissioner of natural resources;

(2) "habitable dwelling" means a dwelling of a permanent nature, together with fixtures and facilities, including sanitary facilities, required or customary in the vicinity of the land made available for homesite entry;

(3) "resident" means a person who is not claiming residence in another state and shows by all attending circumstances that his intent is to make this state his permanent residence. (§ 2 ch 142 SLA 1977)

Chapter 10. Transfer of Tide and Submerged Lands.

Section
10. Application for transfer
20. Surveys
30. Costs and expenses of surveys
40. Conveyances
50. Rules, regulations and procedures

Sec. 38.10.010. Application for transfer. Upon application by a municipal corporation with a population of less than 5,000 persons according to the latest United States census entitled to a conveyance of tide and submerged lands under AS 38.05.320(b), the director of the division of lands of the Department of Natural Resources may make or provide for the making of surveys that may be required for the transfer of tide and submerged lands to the municipal corporation, and as may be required for subsequent conveyance of the tide and submerged lands by the municipal corporations to occupants of those lands who hold preference rights. When the application by the municipal corporation is accepted, the governing body of the municipal corporation shall execute a contract on a form approved by the attorney general providing for the survey under the sole management and supervision of the director and for repayment according to the provisions of this chapter. (§ 1 ch 69 SLA 1961)

SB
590

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 590

With the passage of the Mortgage Subsidy Bond Tax Act (Ullman Bill), the US congress has severely restricted the issuance of tax exempt bonds thereby limiting the mortgage purchases of AHFC.

The Ullman bill allows each state to sell tax exempt bonds to a maximum of $200 million or 9% of the average annual mortgages for the past 3 years. The legislation further provides that only 50% of this amount may be utilized by the State Housing Finance Agency, therfore the creation of the Alaska Housing REVOLVING Loan Fund in AHFC is a possible means of addressing the shortage of mortgage money.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 590:

Establishes the Alaska Housing Revolving Loan Fund in AHFC, consisting of the following:

1) Appropriations made by the legislature
2) Repayments of principle and interest on loans made from the fund

Purpose of the fund: Allows AHFC to use the money in the fund to make or purchase any loans which the corporation is permitted to make by statute.

COMMITTEE REPORT

SENATE

FURTHER: Finance

6/5/81

Date: 8 FEBRUARY 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 590

establishing a revolving loan fund in the Alaska Housing Finance Corp.

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____ CHAIRMAN

S 60 (Rev. 12/78)

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce Date: 8 February, 1982

Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler
Senator Rodey was excused form a call of the Senate;

Public hearing or committee meeting on: SB 513, SB 590, SB 611

COMMITTEE CALENDAR

SB 590 "An act establishing a revolving loan fund in AHFC; and providing for an effective date"
bill number bill title

bill number bill title

WITNESS REGISTER

Witness Name: Tom Williams , Commissioner, Department of Revenue
Affiliation: Commissioner, Department of Revenue
Address: 11th Floor State Office Building
Phone: 465-2300
Summarized Position Statement: Explained the mechanics of a revolving loan fund within AHFC, and entertained questions of the committee.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp
Action: Passed or Failed
Voting Record: 3 do pass

ACTION NARPATIVE

Tape Recording Number 0000 004 Chair opens at 171 with members 3 present etc.

Commissioner Williams testimony begins at tape log 176 and continues through tape log reading 331.

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 the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, 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 orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) (1) — (4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b) — (e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b) — (e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan programs.

(h) The board shall adopt regulations in accordance with (a)—(f) of this section which establish a procedure by which a seller of mortgage loans may appeal a decision of the corporation not to purchase mortgage loans offered by the seller. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (h).

NOTES TO DECISIONS

Applied in Horowitz v. Alaska Bar Ass'n, Sup. Ct. Op. No. 2059 (File Nos. 4310, 4311), 609 P.2d 39 (1980).

Sec. 18.56.089. Executive Budget Act. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07.010 — 37.07.130) for fiscal years beginning after June 30, 1981. (§ 20 ch 106 SLA 1980)

Sec. 18.56.090. General powers. In addition to other powers granted in AS 18.56.010 — 18.56.210, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state and for its other corporate purposes,

(1) Repealed by § 51 ch 115 SLA 1981.

(2) make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners and purchasers of residential housing, if the corporation

(A) has given approval before the initial making of the loan and has determined that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or

(B) has determined that the purchase or participation will result in additional residential housing, taking into account without limitation such factors as reinvestment of the proceeds of the sale in additional mortgage loans, increased availability of mortgage loans insured by the federal government, its agencies or departments, the reduction, if any, of interest payments to be made with respect to mortgage loans, or such other factors as will tend to increase or improve the supply of residential housing within the state;

(4) make partial rental payments and mortgage interest payments under a contract with any housing owner if the payments will be applied to decrease rental or mortgage interest charges of persons of lower and moderate income or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state;

(5) make loans from the housing development fund;

(6) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its mortgages, loans, notes, bonds, certificates, commitments and other evidences of indebtedness;

(7) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the corporation has an interest; sell, transfer and convey any such property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(8) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by AS 18.56.010 — 18.56.210;

(9) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;

(10) procure insurance against any loss in connection with its operation;

(11) consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(12) borrow money as provided in AS 18.56.010 — 18.56.210 to carry out and effectuate its corporate purposes; and issue its obligations as evidence of any such borrowing;

(13) include in any borrowing the amounts necessary to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory and legal fees and such other expenses as are necessary or incident to this borrowing;

(14) under AS 18.56.088, adopt and publish regulations respecting its lending programs and such other regulations as are necessary to effectuate its purposes;

(15) provide technical and advisory services to sponsors, builders and developers of residential housing and to residents of it;

(16) promote research and development in scientific methods of constructing low-cost and energy-efficient residential housing of high durability;

(17) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under AS 18.56.010 — 18.56.210, including contracts with any person, firm, corporation, governmental agency or other entity;

(18) receive, administer and comply with the conditions and requirements respecting any appropriation or gift, grant or donation of property or money;

(19) sue and be sued in its own name;

(20) adopt an official seal;

(21) adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(22) employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the corporation, and fix and pay their compensation from funds available to the corporation;

(23) do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this AS 18.56.010 — 18.56.210;

(24) invest or reinvest, subject to its contracts with noteholders and bondholders, any money or funds held by the corporation in any obli-

gations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States of America;

(25) Repealed by § 21, ch 106 SLA 1981;

(26) Repealed by § 21, ch 106 SLA 1981;

(27) (deleted). (§ 1 ch 107 SLA 1971; am § 3 ch 81 SLA 1972; am §§ 6, 7 ch 167 SLA 1978; am § 14 ch 72 SLA 1979; am § 21 ch 106 SLA 1980; am § 51 ch 115 SLA 1981)

Effect of amendments. — The 1978 amendment substituted "under AS 18.56.088, adopt" for "make" at the beginning of paragraph (14), deleted "rules and" preceding "regulations" in two places in paragraph (14), and added former paragraph (25).

The 1979 amendment added former paragraphs (26) and (27).

The 1980 amendment added "and for its other corporate purposes" at the end of the introductory paragraph, inserted "mortgages" preceding "loans, notes" near the middle of paragraph (6), inserted "certificates" preceding "commitments and other evidences" near the end of paragraph (6), substituted "as provided in AS 18.56.010 -- 18.56.210" for "as herein provided" following "borrow money" near the beginning of paragraph (12), inserted "and energy-efficient" preceding "residential housing" near the middle of paragraph (16), and repealed paragraphs (25) through (27) which concerned the establishment of a rural housing insurance account, a rural housing hazard insurance fund and a rural housing title insurance fund.

The 1981 amendment, effective July 28, 1981, repealed paragraph (1) which concerned the power to make or participate in the making of construction loans.

Sec. 18.56.091. Home ownership fund. There is established in the corporation the home ownership fund, consisting of money appropriated to it by the legislature. Money in the fund shall be used solely to assist persons of lower and moderate income to purchase homes financed under the special mortgage loan purchase program by providing a subsidy to the persons in an amount not greater than the difference between

(1) the amount annually required to pay interest and principal on that person's loan and real property taxes and insurance for the home purchased with the loan; and

(2) 25 percent of that person's annual gross income. (§ 22 ch 106 SLA 1980)

Sec. 18.56.092. Veterans' loans for residential housing.

Repealed by § 77 ch 106 SLA 1980.

Editor's notes. — The repealed section derived from § 7 ch. 151 SLA 1975.

Legislative history reports. — For report on ch. 151, SLA 1975 (HCS CSSB 289 am H), see 1975 Senate Journal, p. 769; 1975 House Journal, p. 1275.

Sec. 18.56.093. Insurance. (a) There is established in the corporation the housing insurance fund, the rural housing hazard insurance

SB
595

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 595 Summary:

Establishes in AHFC the Veterans Housing General Obligation Bond Loan Fund consisting of proceeds from G.O. bonds issued for the purpose and appropriated tc it by the legislature. Provides that money in the fund may only be used to assist financing of housing for vets through AHFC loan program AS 18.56.010-210. Effective date will be the effective date on an amendment to the constitution which would allow a state debt for the financing of housing.

(c) A housing authority created by this section may not transact business or exercise powers granted to it until the governing body of the named association has, by proper resolution, declared that there is a need for the authority to function, gives it the authority to function and has named its commissioners as provided under (d) of this section.

(d) The governing body of the association in question shall, after determining that it wishes to have a regional native housing authority, appoint five persons to serve as the board of commissioners of the authority. The term of office of each member is for three years except that, of the commissioners first appointed, one shall serve for a term of one year and two shall serve for a term of two years. Vacancies shall be filled by the governing body of the association in question.

(e) Questions arising as to jurisdiction and boundary disputes as a result of the jurisdictional lines set out by (a) of this section shall be resolved by the governing board of the Alaska Federation of Natives. (§ 1 ch 123 SLA 1971)

Chapter 56. Alaska Housing Finance Corporation.

Section
10. Findings and purpose
20. Alaska Housing Finance Corporation
30. Corporation governing body
40. Meetings of board
45. Minutes of meetings
50. Administration of affairs
55. Legal advisor
60. Board may employ personnel
70. Personnel exempt from State Personnel Act
80. Interdepartmental cooperation
85. Investment of state surplus
90. General powers
100. Housing development fund
110. Bonds and notes
115. Prohibited bidding on bonds and notes
120. Validity of any pledge
130. Remedies
140. Negotiable instruments
150. Obligations eligible for investment
160. Refunding obligations
170. Credit of state not pledged
180. Officers not liable
190. Tax exemption
200. Annual report
210. Definitions

Sec. 18.56.010. Findings and purpose. (a) There exists within the state a serious shortage of decent, safe and sanitary residential housing available at low or moderate prices or rentals to persons of lower and moderate income. There also exist within the state remote, underdeveloped or blighted areas where the development of decent, safe and sanitary housing is necessary to economic growth. These conditions are inimical to the safety, health, welfare and prosperity of the residents of the state and to the sound growth of urban and rural communities.

(b) The legislature finds and declares that private enterprise has not been able to provide, without assistance, an adequate supply of safe and sanitary homes at prices or rents which persons of lower or moderate income can afford, or to achieve rehabilitation of much of the present housing for persons of lower and moderate income, or to provide without assistance the housing necessary to promote the

economic growth of remote, underdeveloped or blighted areas, and that existing state and federal programs are inadequate to meet housing needs of persons of lower and moderate income or of remote, underdeveloped or blighted areas. It is imperative that the supply of housing for persons of lower and moderate income and the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas be increased and that coordination and cooperation among private enterprise, state and local government be encouraged to sponsor, build and rehabilitate residential housing for these persons.

(c) The legislature finds and declares further that, in accomplishing this purpose, the creation of the Alaska Housing Finance Corporation essential to assist in the acquisition and development of land and the construction, rehabilitation, financing, management, maintenance, sale and rental of dwelling units for persons of lower and moderate income or persons in remote, underdeveloped or blighted areas and that these activities serve a public purpose in benefiting the people of the state. The Alaska Housing Finance Corporation is empowered to act on behalf of the state and its people in serving this public purpose for the benefit of the general public. (§ 1 ch 107 SLA 1971; am § 1 ch 81 SLA 1972)

Effect of amendment. — The 1972 amendment, in subsection (a), inserted "or moderate" in the first sentence, inserted "and moderate" in that sentence, added the second sentence, and substituted "These conditions are" for "This shortage is" at the beginning of the third sentence. In the first sentence of subsection (b), the amendment inserted "and moderate" in three places, inserted "or to provide without assistance the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas," inserted "state and," and inserted "or of remote, underdeveloped or blighted areas." In the second sentence of subsection (b), the amendment inserted "and moderate" and inserted "and the housing necessary to promote the economic growth of remote, underdeveloped or blighted areas." In the first sentence of subsection (c), the amendment inserted "and moderate" and "or persons in remote, underdeveloped or blighted areas."

Legislative committee report. — For report on ch. 81, SLA 1972 (CSHB 547), see 1972 House Journal, p. 859.

Sec. 18.56.020. Alaska Housing Finance Corporation. The Alaska Housing Finance Corporation is a public corporation and government instrumentality within the Department of Commerce, but having a legal existence independent of and separate from the state. The corporation may not be terminated as long as it has bonds, notes or other obligations outstanding. Upon termination of the corporation, its rights and property pass to the state. (§ 1 ch 107 SLA 1971)

Sec. 18.56.030. Corporation governing body. The corporation shall be governed by a board of directors, consisting of the commissioner of commerce and four members appointed by the governor. Members serve without compensation except that each member may be reimbursed by the corporation for actual and necessary expenses at the same rate as set out in AS 39.20.180. (§ 1 ch 107 SLA 1971)

Sec. 18.56.040. Meetings of board. The board shall elect a chairman from among its membership at its first meeting in each year. A majority of the members constitute a quorum for organizing the board, conducting its business and exercising the powers of the corporation. The board shall meet at the call of its chairman. The board shall meet not less than once each three months. (§ 1 ch 107 SLA 1971)

Sec. 18.56.045. Minutes of meetings. The board shall keep minutes of each meeting and send a certified copy to the governor. (§ 1 ch 107 SLA 1971)

Sec. 18.56.050. Administration of affairs. The board may manage the assets and business of the corporation and prescribe, amend and repeal bylaws, rules and regulations governing the manner in which the business of the corporation is conducted and the manner in which its powers are exercised. The board may delegate to one or more of its directors, officers, agents or employees those powers and duties it considers proper. The board may delegate supervision of the administration of the corporation to an executive officer. (§ 1 ch 107 SLA 1971)

Sec. 18.56.055. Legal advisor. The attorney general is the legal counsel for the corporation. He shall advise the corporation in legal matters and represent it in suits. (§ 1 ch 107 SLA 1971)

Sec. 18.56.060. Board may employ personnel. The board may appoint other officers, hire employees and agents, and engage professional and technical advisors as employees or as independent contractors. The board shall prescribe the duties and compensation of corporation personnel. (§ 1 ch 107 SLA 1971)

Sec. 18.56.070. Personnel exempt from State Personnel Act. The personnel of the corporation are exempt from AS 39.25 to the same extent as the personnel of the Alaska State Housing Authority. (§ 1 ch 107 SLA 1971)

Sec. 18.56.080. Interdepartmental cooperation. All departments, agencies and public corporations of the state may provide information, services, facilities and loans to the corporation upon its request. The corporation may reimburse departments, agencies and public corporations of the state for loans advanced or for expenses incurred on the corporation's behalf. (§ 1 ch 107 SLA 1971)

Sec. 18.56.085. Investment of state surplus. Notwithstanding other provisions of law, when the commissioner of revenue determines that there is in the state treasury a surplus above an amount sufficient to meet current cash expenditure needs, the surplus may be invested, in addition to the investments permitted by AS 37.10.070(a), in residential mortgages owned by the corporation and secured by real estate within the state, which investments shall be subject to the terms

and conditions that the corporation and the commissioner of revenue may provide in any contract of sale. Investments allowed by this section shall be made as provided for other investments of the state money under AS 37.10.070(a), (f), (g) and (i). The terms and conditions of any contract of sale authorized to be made under this section may include but are not limited to:

(1) the investment by the state in a specified or determinable amount of mortgages;

(2) the existence of a prior lien on and pledge of the mortgages invested in by the state;

(3) provisions relating to the subordination of the state's interest in and application of annual payments of principal and interest or the proceeds of a permitted sale of, or insurance or prepayments on, the mortgages; and

(4) the right of the corporation to repurchase the mortgages at a predetermined price. (§ 2 ch 81 SLA 1972)

Legislative committee report. — For report on ch. 81, SLA 1972 (CSHB 547), see 1972 House Journal, p. 859.

Sec. 18.56.090. General powers. In addition to other powers granted in this chapter, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state

(1) make or participate in the making of construction loans to sponsors, developers and builders of land development or residential housing, if the corporation determines that construction loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(2) make or participate in the making of mortgage loans to sponsors, developers, builders and purchasers of residential housing, if the corporation determines that mortgage loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions;

(3) purchase or participate in the purchase of mortgage loans made to sponsors, developers, builders, owners and purchasers of residential housing, if the corporation

(A) has given approval before the initial making of the loan and has determined that mortgage loans were, at the time the approval was given, not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions, or

(B) has determined that the purchase or participation will result in additional residential housing, taking into account without limitation such factors as reinvestment of the proceeds of the sale in additional mortgage loans, increased availability of mortgage loans insured by the federal government, its agencies or departments, the reduction, if any, of interest payments to be made with respect to mortgage loans, or

such other factors as will tend to increase or improve the supply of residential housing within the state;

(4) make partial rental payments and mortgage interest payments under a contract with any housing owner if the payments will be applied to decrease rental or mortgage interest charges of persons of lower and moderate income or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state;

(5) make loans from the housing development fund;

(6) collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(7) acquire real property, or any interest in real property, in its own name, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect any loan in which the corporation has an interest; sell, transfer and convey any such property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(8) sell, at public or private sale, to any purchaser, including the Federal National Mortgage Association, all or any part of a mortgage or other instrument or document securing a construction, land development, mortgage or temporary loan of any type permitted by this chapter;

(9) purchase, in order to meet the requirements of the sale of its mortgages to the Federal National Mortgage Association, stock of the Federal National Mortgage Association;

(10) procure insurance against any loss in connection with its operation;

(11) consent to the modification of the rate of interest, time of payment of any installment of principal or interest, or any other terms, of the mortgage loan, mortgage loan commitment, construction loan, temporary loan, contract or agreement of any kind to which the corporation is a party;

(12) borrow money as herein provided to carry out and effectuate its corporate purposes; and issue its obligations as evidence of any such borrowing;

(13) include in any borrowing the amounts necessary to pay financing charges, interest on the obligations for a period not exceeding one year after the date on which the corporation estimates funds will otherwise be available to pay the interest, consultant, advisory and legal fees and such other expenses as are necessary or incident to this borrowing;

(14) make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its purposes;

(15) provide technical and advisory services to sponsors, builders and developers of residential housing and to residents of it,

(16) promote research and development in scientific methods of constructing low-cost residential housing of high durability;

(17) make and execute agreements, contracts and other instruments necessary or convenient in the exercise of the powers and functions of the corporation under this chapter, including contracts with any person, firm, corporation, governmental agency or other entity;

(18) receive, administer and comply with the conditions and requirements respecting any appropriation or gift, grant or donation of property or money;

(19) sue and be sued in its own name;

(20) adopt an official seal;

(21) adopt bylaws for the regulation of its affairs and the conduct of its business and prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(22) employ fiscal consultants, engineers, attorneys, real estate counselors, appraisers and such other consultants and employees as may be required in the judgment of the corporation, and fix and pay their compensation from funds available to the corporation;

(23) do all acts and things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter;

(24) invest or reinvest, subject to its contracts with noteholders and bondholders, any money or funds held by the corporation in any obligations or other securities or investments in which banks or trust companies in the state may legally invest funds held in reserves or sinking funds or any funds not required for immediate disbursement, and in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the state or the United States of America. (§ 1 ch 107 SLA 1971; am § 3 ch 81 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "and moderate" and "or persons located in remote, underdeveloped or blighted areas of the state" in the introductory language, rewrote paragraph (3), inserted "and moderate" and "or owners or purchasers of residential housing in remote, underdeveloped or blighted areas of the state" in paragraph (4) and added paragraph (24).

Legislative committee report. — For report on ch. 81, SLA 1972 (CSHB 547), see 1972 House Journal, p. 859.

Sec. 18.56.100. Housing development fund. (a) There is created a special revolving loan fund to be known as the "housing development fund" to be administered by the corporation as a trust fund separate and distinct from any other money or funds administered by the corporation.

(b) Consistent with § 90 of this chapter, the corporation may make temporary and permanent loans from the housing development fund, at such interest rate or rates as determined by the corporation, and with such security for repayment as is necessary and practicable, to

(1) defray development costs of sponsors, builders, and developers of residential housing;

(2) provide to persons of lower and moderate income who are applying for mortgages, the amounts required to make down payments

and pay closing costs and to housing owners the amounts applied for partial rental payments and mortgage interest payments under § 90(4) of this chapter; or

(3) purchase, make, or participate in the making of mortgage and construction loans which are not federally insured or guaranteed to sponsors, builders, purchasers and developers of land development or residential housing, if the corporation determines that such loans are not otherwise available, wholly or in part, from private lenders upon reasonably equivalent terms and conditions.

(c) To the credit of the housing development fund shall be deposited

(1) grants and contributions to the fund and the proceeds of sale of fund notes; and

(2) all receipts of the corporation on account of repayment of or sale or other disposition of the security for any loans made under (b) of this section.

(d) The corporation may receive and accept from any source whatever any grants or contributions for the housing development fund.

(e) The corporation may provide for the issuance, at one time or from time to time, of housing development fund notes for the purpose of providing funds for the fund. The commissioner of revenue is authorized to purchase fund notes with surplus funds in the state treasury. Before submission of the executive budget to the legislature, the commissioner of revenue shall annually recommend to the governor the anticipated amounts of surplus funds available for purchase of fund notes in the fiscal year encompassed by the budget. In making his recommendation to the governor, the commissioner of revenue shall consider the expenditure and revenue projections contained in the most recent revenue source document prepared for and submitted to the legislature by the administration. If the governor agrees with the recommendation of the commissioner of revenue he shall forward the recommendation to the corporation.

(f) The principal and interest on fund notes is payable solely from the housing development fund. The corporation shall determine the date of the fund notes of each issue, the maturity of the notes, the redemption provisions, if any, including redemption [illegible] terms and conditions, the form and manner of execution of the notes including any interest coupons to be attached to them, the denomination and the place of payment of principal and interest, which may be [illegible] bank, trust company, or agent, including the purchaser of any fund notes. The fund notes may be issued in coupon or in registered form, or both. The corporation may provide for the registration of any coupon fund notes as to principal or interest, or both, and for the reconversion into coupon fund notes of any fund notes registered as to both principal and interest, and for the exchange of registered and coupon fund notes. The corporation may provide for the replacement of fund notes which are mutilated, destroyed, lost or stolen.

(g) Fund notes shall bear interest at the rate, and shall be sold in the manner and for the price the corporation determines.

(h) If an officer whose signature or a facsimile of whose signature appears on any fund notes or coupons attached to them ceases to be an officer before the delivery of the fund notes or coupons, his signature or facsimile is valid for all purposes as if he had remained in office until delivery.

(i) The proceeds of sale of fund notes shall be used solely for the purposes for which issued and shall be disbursed in the manner and under the restrictions the corporation provides in the resolution authorizing the issuance of the fund notes.

(j) Fund notes may be issued without the consent of any government agency and without any other proceedings or conditions other than those which are specifically required by this chapter and the provisions of the resolution authorizing the issuance of the fund notes.

(k) No loan may be made by the corporation from the housing development fund except in accordance with a written agreement which shall include, but need not be limited to, the following terms and conditions:

(1) the proceeds of loans shall be used only for the purposes for which the loan is made, as provided in the agreement;

(2) the loan shall be repaid in full as provided in the agreement;

(3) all repayments in connection with a loan to defray development costs shall be made concurrent with receipt by the borrower of the proceeds of a construction loan or mortgage loan, or at such other times as the corporation considers reasonably necessary or practicable; and

(4) security for repayment shall be specified and shall be upon terms and conditions as the corporation considers necessary or practicable to insure all repayments. (§ 1 ch 107 SLA 1971; am § 4 ch 81 SLA 1972)

Effect of amendment. — The 1972 amendment inserted "and moderate" in subsection (b)(2).

Legislative committee report. — For report on ch. 81, SLA 1972 (CSHB 547), see 1972 House Journal, p. 859.

Sec. 18.56.110. Bonds and notes. (a) The corporation, by resolution, may issue bonds and bond anticipation notes in order to provide funds to carry out and effectuate its purposes.

(b) The principal and interest on these bonds or notes is payable from corporation funds, excluding funds in the housing development fund. Bond anticipation notes may be payable from the proceeds of the sale of bonds or from the proceeds of sale of other bond anticipation notes or, in the event bond or bond anticipation note proceeds are not available, such notes may be paid from other funds or assets of the corporation. Bonds or notes may be additionally secured by a pledge of a grant or contribution from the federal government, or a corporation, association, institution or person, or a pledge of money, income, or revenues of the corporation from any source.

(c) Bonds or bond anticipation notes may be issued in one or more series and shall be dated, bear interest at the rate or rates per year or

within the maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration provisions, have the rank or priority, be executed in the manner and form, be payable from the sources in the medium of payment and place or places within or outside the state, be subject to authentication by a trustee or fiscal agent, and be subject to the terms of redemption with or without premium, as the resolution of the corporation may provide. Bond anticipation notes shall mature at such time or times as may be determined by the corporation. Bonds shall mature at such time, not exceeding 50 years from their date, as may be determined by the corporation. Before the preparation of definitive bonds or bond anticipation notes, the corporation may issue interim receipts or temporary bonds or bond anticipation notes, with or without coupons, exchangeable for bonds or bond anticipation notes when these definitive bonds or bond anticipation notes have been executed and are available for delivery.

(d) Bonds or bond anticipation notes may be sold in the manner, on the terms and at the price the corporation determines.

(e) If an officer whose signature or a facsimile of whose signature appears on any bonds or notes or coupons attached to them ceases to be an officer before the delivery of the bond, note or coupon, his signature or facsimile is valid the same as if he had remained in office until delivery.

(f) In any resolution of the corporation authorizing or relating to the issuance of bonds or bond anticipation notes, the corporation has power by provisions in the resolution which will constitute covenants of the corporation and contracts with the holders of the bonds or bond anticipation notes

(1) to pledge to any payment or purpose all or any part of its revenues to which its right then exists or may thereafter come into existence, and the money derived from the revenues, and the proceeds of any bonds or notes;

(2) to covenant against pledging all or any part of its revenues, or against permitting or suffering a lien on the revenues or its property;

(3) to covenant as to the use and disposition of any and all payments of principal or interest received by the corporation on mortgage loans, construction loans or other investments held by the corporation;

(4) to covenant as to establishment of reserves or sinking funds and the making of provision for and the regulation and disposition of the reserves or sinking funds;

(5) to covenant with respect to or against limitations on a right to sell or otherwise dispose of property of any kind;

(6) to covenant as to bonds and notes to be issued, and their limitations, terms and conditions, and as to the custody, application and disposition of the proceeds of the bonds and notes;

(7) to covenant as to the issuance of additional bonds or notes, or as to

limitations on the issuance of additional bonds or notes and the incurring of other debts;

(8) to covenant as to the payment of the principal of or interest on the bonds or notes, as to the sources and methods of the payment, as to the rank or priority of the bonds or notes with respect to a lien or security, or as to the acceleration of the maturity of the bonds or notes;

(9) to provide for the replacement of lost, stolen, destroyed or mutilated bonds or notes;

(10) to covenant against extending the time for the payment of bonds or notes or interest on the bonds or notes;

(11) to covenant as to the redemption of bonds or notes and privileges of their exchange for other bonds or notes of the corporation;

(12) to covenant to create or authorize the creation of special funds of money to be held in pledge or otherwise for operating expenses, payment or redemption of bonds or notes, reserves or other purposes, and as to the use and disposition of the money held in the funds;

(13) to establish the procedure, if any, by which the terms of any contract or covenant with or for the benefit of the holders of bonds or notes may be amended or abrogated, the amount of bonds or notes the holders of which must consent to amendment or abrogation, and the manner in which the consent may be given;

(14) to covenant as to the custody of any of its properties or investments, their safekeeping and insurance, and the use and disposition of insurance money;

(15) to covenant as to the time or manner of enforcement or restraint from enforcement of any rights of the corporation arising by reason of or with respect to nonpayment of any principal or interest of any mortgage loans or construction loans;

(16) to provide for the rights and liabilities, powers and duties arising upon the breach of any covenant, condition or obligation, and to prescribe the events of default and the terms and conditions upon which any or all the bonds, notes or other obligations of the corporation become or may be declared due and payable before maturity and the terms and conditions upon which any such declaration and its consequences may be waived;

(17) to vest in a trustee or trustees within or outside the state such property, rights, powers and duties in trust as the corporation may determine, which may include any or all of the rights, powers and duties of any trustee appointed by the holders of any bonds or notes, and to limit or abrogate the right of the holders of any bonds or notes of the corporation to appoint a trustee under this chapter or limit the rights, powers and duties of the trustee;

(18) to pay the costs or expenses incident to the enforcement of the bonds or notes or of the provisions of the resolution or of any covenant or agreement of the corporation with the holders of its bonds or notes;

(19) to agree with any corporate trustee which may be any trust company or bank having the powers of a trust company within or

outside the state as to the pledging or assigning of revenues or funds to which or in which the corporation has any rights or interest; the agreement may further provide for such other rights and remedies exercisable by the trustee as may be proper for the protection of the holders of any bonds or notes of the corporation and not otherwise in violation of law and may provide for the restriction of the rights of an individual holder of bonds or notes of the corporation;

(20) to appoint and provide for the duties and obligations of any paying agent or paying agents, or such other fiduciaries as the resolution may provide within or outside the state;

(21) to limit the rights of the holders of any bonds or notes to enforce any pledge or covenant securing bonds or notes;

(22) to make covenants other than and in addition to the covenants expressly authorized in this section, of like or different character, and to make such covenants to do or refrain from doing such acts and things as may be necessary, or convenient and desirable, in order to better secure bonds or notes or which, in the absolute discretion of the corporation, will tend to make bonds or notes more marketable, notwithstanding that the covenants, acts or things may not be enumerated in this section. (§ 1 ch 107 SLA 1971)

Sec. 18.56.115. Prohibited bidding on bonds and notes. (a) No person who provides fiscal programming or marketing assistance to the corporation in connection with the issuance or sale of the corporation's bonds or bond anticipation notes may bid or negotiate on the bonds or notes.

(b) The sale of bonds or notes of the corporation to a person who is prohibited from bidding on the bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section, "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 4 ch 102 SLA 1974)

Sec. 18.56.120. Validity of any pledge. The pledge of assets or revenues of the corporation to the payment of the principal or interest on any obligations of the agency is valid and binding from the time the pledge is made and any such assets or revenues are immediately subject to the lien of the pledge without physical delivery or further act. The lien of any pledge is valid and binding against all parties having claims of any kind in tort, contract or otherwise against the corporation, irrespective of whether those parties have notice of the lien of the pledge. Nothing herein prohibits the corporation from selling assets subject to any pledge, except that any sale may be restricted by the trust agreement or resolution providing for the issuance of the obligations. (§ 1 ch 107 SLA 1971)

Sec. 18.56.130. Remedies. A holder of obligations or coupons attached to them issued under the provisions of this chapter, and a

trustee under any trust agreement or resolution authorizing the issuance of the obligations, except as restricted by a trust agreement or resolution, either at law or in equity, may enforce all rights granted hereunder or under the trust agreement or resolution, or under any other contract executed by the corporation under this chapter, and may enforce and compel the performance of all duties required by this chapter or by the trust agreement or resolution to be performed by the corporation or by any officer of it. (§ 1 ch 107 SLA 1971)

Sec. 18.56.140. Negotiable instruments. All obligations and interest coupons attached to them are negotiable instruments under the laws of this state, subject only to any applicable provisions for registration. (§ 1 ch 107 SLA 1971)

Sec. 18.56.150. Obligations eligible for investment. Obligations issued under the provisions of this chapter are securities in which all public officers and public bodies of the state and its political subdivisions, all insurance companies, trust companies, banking associations, investment companies, executors, administrators, trustees and other fiduciaries may properly and legally invest funds, including capital in their control or belonging to them. These obligations may be deposited with any state or municipal officer of any agency or political subdivision of the state for any purpose for which the deposit of bonds, notes or obligations of the state is authorized by law. (§ 1 ch 107 SLA 1971)

Sec. 18.56.160. Refunding obligations. (a) The corporation may provide for the issuance of refunding obligations for the purpose of refunding any obligations then outstanding which have been issued under the provisions of this chapter, including the payment of any redemption premium on them and any interest accrued or to accrue to the date of redemption of the obligations. The issuance of the obligations, the maturities and other details of them, the rights of the holders of them, and the rights, duties and obligations of the corporation in respect of them are governed by the provisions of this chapter which relate to the issuance of obligations, insofar as those provisions may be appropriate therefor.

(b) Refunding obligations may be sold or exchanged for outstanding obligations issued under this chapter and, if sold, the proceeds may be applied, in addition to any other authorized purposes, to the purchase, redemption or payment of the outstanding obligations. Pending the application of the proceeds of any such refunding obligations, with any other available funds, to the payment of the principal, accrued interest and any redemption premium on the obligations being refunded, and, if so provided or permitted in the resolution authorizing the issuance of the refunding obligations or in the trust agreement securing them, to the payment of any interest on the refunding obligations and any expenses in connection with the refunding, the proceeds may be invested in direct obligations of, or obligations the principal of and the

interest on which are unconditionally guaranteed by, the United States of America which mature or which will be subject to redemption, at the option of the holders of them, not later than the respective dates when the proceeds, together with the interest accruing on them, will be required for the purposes intended. (§ 1 ch 107 SLA 1971)

Sec. 18.56.170. Credit of state not pledged. (a) Obligations issued under the provisions of this chapter do not constitute a debt, liability or obligation of the state or of any political subdivision of the state or a pledge of the faith and credit of the state or of any such political subdivision but are payable solely from revenues or assets of the corporation. Each obligation issued under this chapter shall contain on its face a statement that the corporation is not obligated to pay it nor the interest on it except from the revenues or assets pledged for it and that neither the faith and credit nor the taxing power of the state or of any political subdivision of the state is pledged to the payment of the principal of or the interest on the obligation.

(b) Expenses incurred by the corporation in carrying out the provisions of this chapter are payable from funds provided under this chapter and no liability may be incurred by the corporation in excess of these funds. (§ 1 ch 107 SLA 1971)

Sec. 18.56.180. Officers not liable. No member or other officer of the corporation is subject to personal liability or accountability by reason of his execution of any obligations or the issuance of them. (§ 1 ch 107 SLA 1971)

Sec. 18.56.190. Tax exemption. (a) The exercise of the powers granted by this chapter will be in all respects for the benefit of the people of the state, for their well-being and prosperity and for the improvement of their social and economic conditions, and the corporation is not required to pay a tax or assessment on any property owned by the corporation under the provisions of this chapter or upon the income from it, except taxes on real property of which the corporation is fee owner.

(b) All obligations issued under this chapter are hereby declared to be issued by a body corporate and public of the state and for an essential public and governmental purpose, and the obligations, and the interest and income on and from the obligations, and all fees, charges, funds, revenues, income and other money pledged or available to pay or secure the payment of the obligations, or interest on the obligations, are exempt from taxation except for transfer, inheritance and estate taxes. (§ 1 ch 107 SLA 1971)

Sec. 18.56.200. Annual report. The corporation shall prepare and transmit annually a report accounting to the governor and the legislature for the efficient discharge of all responsibility assigned by law or by directive to the corporation. (§ 1 ch 107 SLA 1971)

Sec. 18.56.210. Definitions. In this chapter, unless the context clearly indicates a different meaning

(1) "corporation" means the Alaska Housing Finance Corporation created by this chapter;

(2) "board" means the board of directors of the corporation;

(3) "development costs" means the costs approved by the corporation as appropriate expenditures which may be incurred by sponsors, builders and developers of residential housing, before commitment and initial advance of the proceeds of a construction loan or of a mortgage loan, including but not limited to

(A) payments for options to purchase properties on the proposed residential housing site, deposits on contracts of purchase, or, with prior approval of the corporation, payments for the purchase of the properties;

(B) legal and organizational expenses, including payments of attorney fees, project manager, clerical and other staff salaries, office rent and other incidental expenses;

(C) payment of fees for preliminary feasibility studies and advances for planning, engineering and architectural work;

(D) expenses for tenant surveys and market analyses; and

(E) necessary application and other fees;

(4) "governmental agency" means any department, division, public agency, political subdivision or other public instrumentality of the state or the federal government;

(5) "housing development fund" means the housing development fund created by § 100 of this chapter;

(6) "construction loan" means a construction loan for land development or residential housing which is secured by a federally insured or guaranteed mortgage or which is insured or guaranteed by the United States or an instrumentality thereof, or for which there is a commitment by the United States or an instrumentality thereof to insure or guarantee such a loan, or a construction loan for land development or residential housing wich land development or residential housing will be secured by a mortgage loan;

(7) "mortgage" or "mortgage loan" means a mortgage loan for residential housing insured or guaranteed by the United States or an instrumentality thereof or for which there is a commitment by the United States or an instrumentality thereof to insure or guarantee such a mortgage, or if not so insured or guaranteed or if there is no such commitment, which the corporation determines meets the conditions described in § 100(k) of this chapter or which shall be secured upon such terms and conditions as the corporation considers necessary or practicable to insure all repayments;

(8) "land development" means the process of acquiring land primarily for residential housing construction for persons of lower and moderate income and making, installing or constructing nonresidential housing improvements, including water, sewer and other utilities,

roads, streets, curbs, gutters, sidewalks, storm drainage facilities and other installations or works, whether on or off the site, which the corporation considers necessary or desirable to prepare the land primarily for residential housing construction;

(9) "obligations" means any bonds, bond anticipation notes or fund notes authorized to be issued by the agency under the provisions of this chapter;

(10) "persons of lower and moderate income" means a person or persons considered by the corporation to require assistance available under this chapter on account of insufficient or inadequate personal or family income or otherwise limited personal financial resources, taking into consideration, without limitation, such factors as

(A) the amount of the total income of the persons available for housing needs;

(B) the size of the family;

(C) the cost and condition of housing facilities available;

(D) standards established for various federal programs determining eligibility based on income of the persons; and

(E) the ability of the persons to compete successfully in the normal housing market and to pay the amounts at which private enterprise is providing decent, safe and sanitary housing;

(11) "residential housing" means a specific work or improvement undertaken primarily to provide dwelling accommodations without limitation as to form of lawful occupancy, whether rental, under contract, fee ownership, cooperative housing, condominium or other lawful forms of ownership, for persons of lower and moderate income, or in remote, underdeveloped or blighted areas, including the acquisition, construction or rehabilitation of land, buildings and improvements thereto, and such other nonhousing facilities as may be incidental or appurtenant thereto;

(12) "remote, underdeveloped or blighted areas" means areas considered by the corporation to require assistance available under this chapter on account of insufficient availability of the residential housing necessary to promote, develop or maintain the economic growth or potential of the area, taking into consideration, without limitation, the following:

(A) the population, resources and environment of the area;

(B) the present availability and condition of residential housing in and near the area;

(C) the cost of construction and rehabilitation of residential housing in the area;

(D) the availability of other federal or state sponsored progams to facilitate the development of residential housing in the area; and

(E) the ability of residents of the area to finance the purchase of residential housing or to rent or lease such housing at rates comparable

SB
596

Alaska State Legislature

Official Business

Se[illegible]e

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 596:

Provides for the issuance of $115,000,000 in G.O. Bonds for the purpose of housing loans for vets, through AHFC. Requires that the question of whether the bonds should be issued be submitted to the voters at the next general election. Effective immediately.

(4) make, execute, acknowledge, and deliver documents of transfer and conveyance and instruments necessary or appropriate to carry out the powers granted;

(5) register investments held in a fund in the name of the board having the power to approve investments for a fund;

(6) do all acts whether or not expressly authorized which are considered proper for the protection of the investments held in the funds. (§ 4 ch 182 SLA 1978)

Chapter 15. State Bonding Act.

Article
1. General Obligation Bonds (§§ 37.15.010 — 37.15.220)
2. Bond Anticipation Notes (§§ 37.15.300 — 37.15.390)
3. International Airports Revenue Bonds (§§ 37.15.410 — 37.15.550)

Article 1. General Obligation Bonds.

Section
10. Full faith and credit for general obligation bonds
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Sec. 37.15.010. Full faith and credit for general obligation bonds. The full faith, credit and resources of the state are hereby pledged to the payment of the principal of and interest and redemption premium, if any, on all general obligation bonds of the state authorized pursuant to art. IX, § 8 of the constitution. (§ 1 ch 175 SLA 1960; am § ch 104 SLA 1967)

Revisor's note. — The following laws relate to issuance of general obligation bonds under the provisions of this chapter.

Ch. 170, SLA 1960, and ch. 50, SLA 1961, provide for the issuance of bonds in the amount of $23,000,000 for ferries and ferry facilities and roads and highways.

Ch. 171, SLA 1960, and ch. 54, SLA 1961, provide for the issuance of bonds in the amount of $1,500,000 for vocational education schools.

Ch. 172, SLA 1960, and ch. 64, SLA 1961, provide for the issuance of bonds in the amount of $2,000,000 for gymnasium and general utility facilities for the University of Alaska.

Ch. 173, SLA 1960, ch. 66, SLA 1961, and ch. 100, SLA 1962, provide for the issuance of bonds in the amount of $2,500,000 for hospital construction and equipment matching funds.

Ch. 174, SLA 1960, and ch. 65, SLA 1961, provide for the issuance of bonds in the amount of $1,500,000 for state bush airfields.

Ch. 121, SLA 1962, provides for the issuance of bonds in the amount of $5,950,000 for construction of academic and related facilities at the University of Alaska.

Ch. 122, SLA 1962, provides for the issuance of bonds in the amount of $5,000,000 for certain elementary and secondary public schools.

Ch. 123, SLA 1962, provides for the issuance of bonds in the amount of $4,175,000 for trunk airports.

Ch. 157, SLA 1962, provides for the issuance of bonds in the amount of $2,200,000 for a vocational education school.

Ch. 57, SLA 1963, providing for the issuance of bonds in the amount of $2,200,000 for a vocational education school, affects ch. 157, SLA 1962, relating to the issuance of bonds for a vocational education school.

Ch. 48, SLA 1964, as amended by ch. 68, SLA 1966, and ch. 28, SLA 1967, provide for the issuance of bonds in the amount of $8,185,000 to meet the effects of the March 27, 1964, earthquake.

Ch. 94, SLA 1964, provides for the issuance of bonds in the amount of $2,000,000 for a branch of the Alaska Pioneers' Home at Fairbanks.

Ch. 118, SLA 1964, and ch. 96, SLA 1965, provide for the issuance of bonds in the amount of $5,000,000 for state buildings for use by the Department of Health and Welfare.

Ch. 86, SLA 1966, provides for the issuance of bonds in the amount of $900,000 to provide outdoor recreation facilities.

Ch. 121, SLA 1966, provides for the issuance of bonds in the amount of $2,285,000 for elementary and secondary public schools throughout the state.

Ch. 134, SLA 1966, provides for the issuance of bonds in the amount of $15,500,000 for state ferries and ferry facilities.

Ch. 165, SLA 1966, provides for the issuance of bonds in the amount of $16,900,000 for buildings for the University of Alaska throughout the state.

Ch. 166, SLA 1966, provides for the issuance of bonds in the amount of $10,500,000 for highways and roads in the

Ch. 167, SLA 1966, provides for the issuance of bonds in the amount of $11,500,000 for trunk, secondary and bush airports owned or operated by the state or its political subdivisions.

Ch. 168, SLA 1966, provides for the issuance of bonds in the amount of $5,000,000 for regional high schools throughout the state.

Ch. 73, SLA 1967, and ch. 142, SLA 1968, provide for the issuance of bonds in the amount of $5,000,000 and $11,200,000, respectively, for highways and roads in the state.

Ch. 91, SLA 1968, provides for the issuance of bonds in the amount of $2,000,000 for a branch of the Alaska Pioneers' Home in the Southcentral area.

Ch. 146, SLA 1968, provides for the issuance of bonds in the amount of $1,200,000 for public or other nonprofit community hospitals and other medical facilities at various locations in the state.

Ch. 167, SLA 1968, provides for the issuance of bonds in the amount of $8,800,000 for trunk, secondary and bush airports owned or operated by the state or its political subdivisions.

Ch. 207, SLA 1968, provides for the issuance of bonds in the amount of $10,000,000 for elementary and secondary public schools at various locations in the state.

Ch. 224, SLA 1968, provides for the issuance of bonds in the amount of $8,500,000 for buildings, facilities and utilities at the University of Alaska.

Ch. 226, SLA 1968, provides for the issuance of bonds in the amount of $18,000,000 for state ferries. This bond issue was not approved by the voters.

Ch. 227, SLA 1968, provides for the issuance of bonds in the amount of $3,000,000 for fish hatcheries in the state.

Ch. 147, SLA 1970, as amended by ch. 220, SLA 1970, provides for the issuance of bonds in the amount of $11,000,000 for capital improvements for water supply and sewerage systems.

Ch. 170, SLA 1970, provides for the issuance of bonds in the amount of $20,300,000 for certain elementary and secondary public schools within the state.

Ch. 173, SLA 1970, provides for the issuance of bonds for facilities at Anchorage and Fairbanks International Airports.

Ch. 180, SLA 1970, provides for the issuance of bonds in the amount of $3,000,000 for making capital improvements to Alaska Remote Housing Program

Ch. 181, SLA 1970, provides for the issuance of bonds in the amount of $2,300,000 for making capital improvements to state recreational facilities.

Ch. 182, SLA 1970, provides for the issuance of bonds in the amount of $29,200,000 for making capital improvements to highways and roads in the state.

Ch. 183, SLA 1970, provides for the issuance of bonds in the amount of $8,600,000 for making capital improvements to state correctional buildings for use by the Department of Health and Welfare.

Ch. 190, SLA 1970, provides for the issuance of bonds in the amount of $5,600,000 for making capital improvements to mental health facilities, health and child care centers.

Ch. 221, SLA 1970, provides for the issuance of bonds in the amount of $5,500,000 for making capital improvements to highway maintenance facilities.

Ch. 222, SLA 1970, provides for the issuance of bonds in the amount of $10,000,000 for making capital improvements to certain airports in the state.

Ch. 223, SLA 1970, provides for the issuance of bonds in the amount of $21,000,000 for making capital improvements to the state ferry system.

Ch. 224, SLA 1970, provides for the issuance of bonds in the amount of $29,700,000 for making capital improvements to buildings, facilities, and utilities at the University of Alaska and community colleges.

Ch. 97, SLA 1972, provides for the issuance of bonds in the amount of $3,500,000 for the purpose of matching federal funds under the Hill-Burton hospital construction program.

Ch. 99, SLA 1972, provides for the issuance of bonds in the amount of $10,000,000 for paying the cost of capital improvements for highway construction.

Ch. 150, SLA 1972, provides for the issuance of bonds in the amount of $11,500,000 for paying the cost of capital improvements for civic, convention and community recreation centers and all-weather sports facilities. This bond issue was not approved by the voters.

Ch. 177, SLA 1972, provides for the issuance of bonds in the amount of $18,000,000 for paying the cost of capital improvements for water supply and sewerage systems.

Ch. 194, SLA 1972, provides for the issuance of bonds in the amount of $24,000,000 for paying the cost of capital improvements for airports.

Ch. 195, SLA 1972, provides for the issuance of bonds in the amount of $16,000,000 for paying the cost of acquiring, constructing and equipping state-operated schools.

Ch. 201, SLA 1972, provides for the issuance of bonds in the amount of $20,000,000 for paying the cost of capital improvements for flood control and small boat harbor projects.

Ch. 202, SLA 1972, provides for the issuance of bonds in the amount of $33,000,000 for paying the cost of capital improvements for water supply and sewerage systems.

Ch. 2, SLA 1973, provides for the issuance of bonds in the amount of $11,500,000 for paying the cost of capital improvements for civic, convention and community recreation centers. This bond issue was rejected by the voters at the special election held March 6, 1973.

Ch. 62, SLA 1974, provides for the issuance of bonds in the amount of $2,700,000 for paying the cost of fire protection facilities.

Ch. 86, SLA 1974, provides for the issuance of bonds in the amount of $22,500,000 to fund port facilities development grants under ch. 85, SLA 1974.

Ch. 116, SLA 1974, provides for the issuance of bonds in the amount of $7,900,000 to pay the cost of library resource centers and community libraries.

Ch. 118, SLA 1974, provides for the issuance of bonds in the amount of $10,400,000 to pay the cost of trunk and secondary airport construction.

Ch. 122, SLA 1974, provides for the issuance of bonds in the amount of $37,300,000 to pay for highway, ferry and local service road and trail construction.

Ch. 132, SLA 1974, provides for the issuance of bonds in the amount of $10,900,000 to pay the state share under the Hill-Burton Act hospital construction program and for nursing homes.

Ch. 133, SLA 1974, provides for the issuance of bonds in the amount of $10,500,000 to pay the cost of fish and game management, development and enforcement facilities.

Ch. 135, SLA 1974, provides for the issuance of bonds in the amount of $7,515,000 to pay the cost of constructing

Ch. 142, SLA 1974, provides for the issuance of bonds in the amount of $40,337,000 to pay the cost of rural school construction.

Ch. 144, SLA 1974, provides for the issuance of bonds in the amount of $39,523,000 to pay the cost of capital improvements for the University of Alaska.

Ch. 124, SLA 1976, provides for the issuance of bonds in the amount of $7,100,000 for paying the cost of regional fire fighter training centers.

Ch. 131, SLA 1976, provides for the issuance of bonds in the amount of $59,290,000 for paying the cost of constructing, repairing, equipping and upgrading school facilities.

Ch. 168, SLA 1976, provides for the issuance of bonds in the amount of $6,660,000 for paying the cost of capital improvements to parks and recreation areas, and outdoor recreational, open space and historic properties projects.

Ch. 214, SLA 1976, provides for the issuance of bonds in the amount of $29,205,000 for paying the cost of capital improvements to fish and game management and development facilities.

Ch. 239, SLA 1976, provides for the issuance of bonds in the amount of $7,500,000 for paying the cost of construction and development of senior citizen housing.

Ch. 243, SLA 1976, provided for the issuance of bonds in the amount of $26,960,000 for paying the cost of capital improvements for the University of Alaska. This bond issue was rejected at the general election held November 2, 1976.

Ch. 247, SLA 1976, provides for the issuance of bonds in the amount of $58,860,000 for paying the cost of highway, ferry and local service road and trails construction.

Ch. 248, SLA 1976, provides for the issuance of bonds in the amount of $6,866,000 for paying the cost of airport construction and facilities.

Ch. 270, SLA 1976, provided for the issuance of bonds in the amount of $10,630,000 for paying the cost of constructing and major remodeling of justice facilities. This bond issue was rejected by the voters at the general election held November 2, 1976.

Ch. 271, SLA 1976, provides for the issuance of bonds in the amount of $31,000,000 for paying the cost of water supply and sewerage systems construction.

Two other major bonding laws which have been passed since statehood but which do not come under the provisions of this chapter are mentioned here for completeness:

Ch. 56, SLA 1961, provides for the issuance of negotiable revenue bonds of the University of Alaska in the amount of $6,750,000 for certain University of Alaska buildings.

Ch. 88, SLA 1961, as referred to in ch. 108, SLA 1962, and amended in ch. 80, SLA 1968, and ch. 173, SLA 1970, provide for the issuance of negotiable revenue bonds of the state in the amount of $19,925,000 for international airports.

In addition, the following session laws provide for negotiable revenue bonds: Ch. 43 SLA 1963 — $2,020,000 for acquiring, constructing and equipping a student dormitory and dining complex for the University of Alaska; ch. 109 SLA 1965 — $4,590,000 for acquiring, constructing and equipping two student dormitories, a dining facility and a food warehouse and preparation center; ch. 111 SLA 1969 — $4,000,000 for acquiring, constructing, etc., a campus activities center at the University of Alaska.

For legislative committee reports on (1) ch. 50, SLA 1961, relating to ferry bonds, see 1961 House Journal, pp. 223-224; (2) ch. 66, SLA 1961, relating to hospital bond standards, see 1961 House Journal, pp. 263-264; (3) ch. 65, SLA 1961, relating to bush airfield bonds, see 1961 House Journal, pp. 280-281; (4) ch. 188, SLA 1970 (SB 442 am FCC), relating to capital improvements to state correctional buildings, see 1970 Senate Journal, p. 574; (5) ch. 222, SLA 1970 (FCCS SB 431), relating to capital improvements to certain airports in the state, see 1970 House Journal, p. 1529; 1970 Senate Journal, p. 1276. For legislative committee report on capital improvement program, see 1960 House Journal, pp. 231-234, 253.

Am. Jur., ALR and C.J.S. references. — 43 Am. Jur., Public Securities and Obligations, §§ 151, 156 to 160.

Funding or refunding obligations as subject to conditions respecting approval by voters, 97 ALR 442.

Validity of bond issue in excess of amount permitted by law within authorized debt, tax or voted limit, 175 ALR 823.

81 C.J.S. States §§ 179 to 190.

Sec. 37.15.015. Committee shall publish notice of existing state indebtedness before election. (a) Before a general or special election in which a bond issue is offered for ratification, the state bond committee shall publish a notice of existing state bonded indebtedness at least once a week for three consecutive weeks in a newspaper of general circulation in each of the four judicial districts of the state. The first notice shall be published at least 20 days before the date of the election. A notice shall contain

(1) the current total bonded indebtedness of the state,

(2) the cost of the debt service on the current indebtedness.

(b) Neither the failure to publish the notice of existing state bonded indebtedness nor a defect in the publication affects the validity of the bond issue offered for ratification or of a general or special election in which a bond issue is offered for ratification. (§ 2 ch 50 SLA 1964; am § 1 ch 8 SLA 1969)

Editor's note. — Section 2, ch. 8, SLA 1969, provides: "This Act may not be construed as having changed the effect of AS 37.15.015 since this Act merely makes explicit that which was already intended before its enactment."

Legislative committee report. — For report on ch. 8, SLA 1969 (HB 79 am S), see 1969 House Journal, p. 186.

Sec. 37.15.020. Manner and amounts of sale. The state bond committee shall sell the bonds of each authorization in the amounts or series and at the times which it finds are for the best interests of the state and its inhabitants. (§ 1 ch 175 SLA 1960)

Am. Jur. reference. — 43 Am. Jur., Public Securities and Obligations, §§ 126 to 160.

Sec. 37.15.030. Interest rate and maturity. Each issue or series of bonds shall bear interest at an effective rate over the life of the bonds not to exceed eight per cent a year. The bonds shall mature in not more than 30 years from date of issue, unless a longer period is specifically authorized by statute. (§ 1 ch 175 SLA 1960; am § 2 ch 104 SLA 1967; am § 1 ch 92 SLA 1970; am § 1 ch 29 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "eight per cent" for "seven per cent" in the first sentence.

Sec. 37.15.040. Sale of bonds. Before selling an issue or series of bonds, the state bond committee shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If the state bond committee determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may

reject all bids received. (§ 1 ch 175 SLA 1960; am § 3 ch 104 SLA 1967; am § 1 ch 43 SLA 1969)

Sec. 37.15.050. Redemption. The state bond committee may determine whether the bonds are subject to redemption before their fixed maturities and may fix the premium for and all other terms of the redemption. No bond may be subject to redemption before its fixed maturity date unless the right to so redeem the bond is expressly mentioned on the face of the bond. (§ 1 ch 175 SLA 1960; am § 4 ch 104 SLA 1967; am § 1 ch 26 SLA 1968; am § 7 ch 143 SLA 1968)

Legislative committee report. — For legislative committee report on ch. 143, SLA 1968 (HB 707), see House Journal (1968), p. 836.

Am. Jur., ALR and C.J.S. references. — 38 Am. Jur., Municipal Corporations, §§ 408 to 482; 42 Am. Jur., Public Funds, § 1 et seq.; 43 Am. Jur., Public Securities and Obligations, §§ 24, 25, 260 to 270; 49 Am. Jur., States, Territories and Dependencies, §§ 66 to 71.

Funding or refunding obligations as subject to conditions respecting limitation of indebtedness, 97 ALR 442.

Validity of bond issue in excess of amount permitted by law within authorized debt, tax or voted limit, 175 ALR 823.

81 C.J.S. States § 189.

Sec. 37.15.060. Form and registration of bonds. An issue or series of bonds may be issued in coupon form payable to bearer or in fully registered form, and bonds in coupon form may be made registrable as to principal or principal and interest, as determined by the state bond committee. (§ 1 ch 175 SLA 1960; am § 2 ch 26 SLA 1968)

Am. Jur. reference. — 43 Am. Jur., Public Securities and Obligations, §§ 106 to 116.

Sec. 37.15.070. Place of payment. The state bond committee may fix the place or places of payment of the principal, interest and redemption premium, if any. (§ 1 ch 175 SLA 1960; am § 5 ch 104 SLA 1967)

Sec. 37.15.080. Signatures and seal. (a) Each bond shall be signed on behalf of the state by the governor and attested by the lieutenant governor, which signatures may be facsimile signatures. The seal of the state shall be impressed, imprinted or otherwise reproduced on each bond. Each interest coupon attached to the bond shall be signed by the facsimile signatures of the governor and lieutenant governor. If an officer whose signature appears on the bonds or coupons ceases to be an officer before delivery of the bonds, the signature is, nevertheless, valid and sufficient for all purposes, as if the officer had remained in office until delivery.

(b) A signature required on a bond issued by a political subdivision of the state may be a facsimile signature. (§ 1 ch 175 SLA 1960; am § 6 ch 104 SLA 1967)

Revisor's note (1971). — In this section "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment

(SJR 2) changing the designation of that office.

Am. Jur. reference. — 43 Am. Jur., Public Securities and Obligations, § 108.

Sec. 37.15.090. Terms and conditions. Each issue or series of bonds shall be issued under and subject to the terms, conditions, and covenants providing for the payment of the principal and the interest and other terms, conditions, covenants, and protective provisions safeguarding the payment as found reasonably necessary by the state bond committee for the most advantageous sale. The terms, conditions, and covenants may include the setting aside and maintaining of certain reserves to secure the payment of principal and interest. (§ 1 ch 175 SLA 1960)

Am. Jur. reference. — 43 Am. Jur., Public Securities and Obligations, §§ 106 to 116.

Sec. 37.15.100. Trustee. If the state bond committee finds it necessary to accomplish the most advantageous sale of the bonds, the committee shall select a trustee for the owners and holders of the bonds or for the safeguarding and disbursement of the proceeds of the sale of the bonds for the use and purpose for which issued, and shall fix the rights, duties, powers, and obligations of the trustee. (§ 1 ch 175 SLA 1960)

Sec. 37.15.110. Creation and membership of state bond committee. There is created a committee known as the "state bond committee," the members of which are the commissioner of commerce and economic development, the commissioner of administration, and the commissioner of revenue. If a member of the committee is absent or otherwise unable to act, his designee in the department shall act as a member of the committee in his place. (§ 2 ch 175 SLA 1960; am § 7 ch 104 SLA 1967; am § 81 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in the first sentence.

Sec. 37.15.120. Regulations. The state bond committee may adopt rules and regulations for the performance of its duties and may designate by resolution one of its members to perform any act necessary to effectuate its duties not required by statute to be performed by the state bond committee in meeting or by resolution, or by another officer of the state. (§ 2 ch 175 SLA 1960; am § 8 ch 104 SLA 1967)

Sec. 37.15.130. Officers, records and proceedings. The commissioner of commerce and economic development is the chairman of the state bond committee and the commissioner of revenue is the secretary. A majority of the members of the committee constitute a quorum. The committee shall keep a full, complete, and permanent

record of its proceedings. All records and correspondence of the committee shall be kept in the office of the commissioner of revenue. (§ 2 ch 175 SLA 1960; am § 82 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in the first sentence.

Sec. 37.15.140. Duties of state bond committee. The state bond committee shall adopt the resolution and prepare the documents necessary for the issuance, sale, and delivery of bonds. (§ 3 ch 175 SLA 1960)

Sec. 37.15.150. Committee may employ special services. If the state bond committee considers it necessary and advisable, it may procure architectural or engineering, fiscal agent or municipal investment, legal and other expert or specialized services at reasonable and customary fees to assist it in accomplishing the most advantageous sale of the bonds. The fees may be paid from the proceeds of the sale or advanced from the contingency fund in the office of the governor or otherwise. (§ 3 ch 175 SLA 1960)

Sec. 37.15.155. Prohibited bidding on bonds and anticipation notes. (a) No person who provides financial programming or marketing assistance to the state bond committee in connection with the issuance or sale of general obligation bonds, revenue bonds or bond anticipation notes of the state may bid on the bonds.

(b) The sale of general obligation bonds, revenue bonds or bond anticipation notes of the state to a person who is prohibited from bidding on the bonds or notes under (a) of this section is against public policy and the sale is void.

(c) In this section "person" means an individual, firm, agent, factor, intermediary, partnership, corporation, association, bond house, stockbroker or bond broker. (§ 1 ch 102 SLA 1974)

Sec. 37.15.160. Contents of resolution. The resolution adopted by the state bond committee shall

(1) fix the principal amount, denominations, date, maturities, place of payment, terms, right of redemption if any, form, conditions and covenants of the bonds;

(2) fix the date of sale and the form of the notice of sale; and

(3) provide if the notice is to be published elsewhere in addition to the publication required by § 40 of this chapter. (§ 3 ch 175 SLA 1960; am § 3 ch 26 SLA 1968)

Sec. 37.15.170. State bond committee to certify annual principal, interest, and reserve requirements. (a) Before January 1 of each year after bonds are issued, the state bond committee shall certify to the commissioner of administration the amount needed for the following

calendar year to meet principal, interest, and reserve requirements on all bonds or issues or series of bonds then outstanding.

(b) The commissioner of administration shall set aside these amounts or make the necessary provisions for the setting aside of these amounts so that there will be sufficient money to pay the principal and interest on the due date and to meet reserve requirements. (§ 4 ch 175 SLA 1960)

Sec. 37.15.180. Remedies of bondholders. The owner and holder of each bond or the trustee may by appropriate proceeding require and compel the transfer and payment of money as directed by this chapter. (§ 4 ch 175 SLA 1960)

Sec. 37.15.190. Negotiability. General obligation bonds of the state and the coupons attached to the bonds are negotiable instruments. (§ 5 ch 175 SLA 1960)

Am. Jur. and ALR references. — 43 Am. Jur., Public Securities and Obligations, §§ 161 to 165.

Negotiability of state warrants, 36 ALR 949.

Sec. 37.15.200. Bonds as legal investments. General obligation bonds of the state are legal investments for all state funds, or for funds under state control, and for all funds of a political subdivision of the state. (§ 5 ch 175 SLA 1960)

Sec. 37.15.210. Refunding bonds. (a) All or a part of the general obligation bonds of the state, or all or a part of each outstanding issue or series of bonds, may be refunded at or before maturity by the issuance of general obligation refunding bonds of the state if, in the opinion of the state bond committee, refunding is advantageous to and in the best interest of the state and its inhabitants. Money set aside as reserve to secure the payment of the principal and interest of bonds being refunded may be used to pay the principal and interest on these bonds or may be retained by the state to secure the payment of the principal and interest on the refunding bonds to be issued.

(b) Refunding bonds and the coupons attached to them are negotiable instruments. The effective rate of interest over the life of refunding bonds may not exceed seven per cent a year and the amount of premium which is paid to effect the redemption of outstanding bonds may not be considered in determining the effective rate of interest.

(c) Refunding bonds may be exchanged for the bonds being refunded or refunding bonds may be sold in the manner and at the prices which the state bond committee determines to be for the best interest of the state and its inhabitants either at public or private sale.

(d) The issuance of refunding bonds need not be authorized by the qualified voters of the state. The state bond committee shall adopt the resolution and prepare the documents necessary for the issuance, exchange or sale, and delivery of refunding bonds. The provisions of this

chapter relating to the terms, conditions, covenants, issuance, and sale of general obligation bonds of the state apply to refunding bonds except as otherwise specifically provided in this section. (§ 6 ch 175 SLA 1960; am § 2 ch 92 SLA 1970)

Am. Jur. reference. — 43 Am. Jur., Public Securities and Obligations, §§ 156 to 160.

Sec. 37.15.215. Official statements. To the extent practicable the official statements and other documentation issued in connection with an offering of state or local government securities shall comply with the guidelines of the Municipal Finance Officers Association or other nationally recognized guidelines. (§ 12 ch 168 SLA 1978)

Sec. 37.15.220. Short title. Sections 10 — 220 of this chapter may be cited as the State Bonding Act. (§ 7 ch 175 SLA 1960; am § 54 ch 127 SLA 1974)

Effect of amendment. — The 1974 amendment added "Sections 10 — 220 of" to the beginning of this section.

Legislative committee report. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

Article 2. Bond Anticipation Notes.

Section
300. Borrowing in anticipation of sale of bonds permitted
310. Issuance of notes
320. [Repealed]
330. Repayment of notes
340. Security for repayment of general obligation bonds
350. Security for repayment of revenue bonds
360. Limitation on issuance of notes
370. Use of proceeds from sale of notes
380. Sale of notes
390. Execution of notes

Sec. 37.15.300. Borrowing in anticipation of sale of bonds permitted. When the state bond committee considers it in the best interests of the state, it may borrow money in anticipation of the sale of general obligation and revenue bonds, if

(1) the general obligation bonds to be sold have been authorized by law and ratified by a majority vote of the qualified voters of the state who vote on the question; or

(2) the general obligation bonds to be sold have been authorized by law for the purpose of meeting natural disasters, repelling invasion, suppressing insurrection, or defending the state in war; or

(3) the revenue bonds to be sold have been authorized by law; and

(4) money to be derived from the sale of general obligation and revenue bonds have been appropriated by the legislature. (§ 1 ch 42 SLA 1964; am § 1 ch 74 SLA 1964)

Sec. 37.15.310. Issuance of notes. The state bond committee shall issue notes for the amounts borrowed with a maturity date not to exceed

one year from the date of issue. All the notes are payable at a fixed place, on or before a fixed time, or at a fixed time, from the proceeds of the sale of bonds, in anticipation of which the original note or notes were issued, unless the bonds have not been sold by the maturity date of the notes. Interest on the notes is payable at a fixed place, on or before a fixed time, out of appropriations made for the payment of interest on general obligation notes or bonds of the state. (§ 1 ch 42 SLA 1964; am § 1 ch 127 SLA 1976)

Effect of amendment. — The 1976 amendment deleted "and the interest thereon" following "All the notes" near the beginning of the second sentence and added the third sentence.

Sec. 37.15.320. Issuance of new notes. Repealed by § 3 ch 41 SLA 1967.

Editor's note. — The repealed section derived from § 1, ch. 42, SLA 1964; § 1, ch. 41, SLA 1967.

Sec. 37.15.330. Repayment of notes. Every note shall be payable from the proceeds of the next succeeding sale of bonds or from the proceeds of the sale of new bond anticipation notes. (§ 1 ch 42 SLA 1964)

Sec. 37.15.340. Security for repayment of general obligation bonds. Notes issued in anticipation of the sale of general obligation bonds and the interest thereon are secured by the full faith, credit, and resources of the state. (§ 1 ch 42 SLA 1964)

Sec. 37.15.350. Security for repayment of revenue bonds. Notes issued in anticipation of the sale of revenue bonds and the interest thereon are secured in the same manner as are the revenue bonds in anticipation of which the notes are issued. (§ 1 ch 42 SLA 1964)

Sec. 37.15.360. Limitation on issuance of notes. The total amount of such notes issued and outstanding shall at no time exceed the total amount of bonds authorized to be issued. (§ 1 ch 42 SLA 1964)

Sec. 37.15.370. Use of proceeds from sale of notes. The proceeds from the sale of the notes shall be used only for the purposes for which the proceeds from the sale of bonds may be used or to meet payment of outstanding bond anticipation notes. (§ 1 ch 42 SLA 1964)

Sec. 37.15.380. Sale of notes. Notes issued under this chapter shall be sold by the state bond committee in such manner and at such price or prices as it shall determine, at either public or private sale; however, no such note shall be sold for less than par and accrued interest or at an interest rate exceeding seven per cent a year. (§ 1 ch 42 SLA 1964; am § 3 ch 92 SLA 1970)

Sec. 37.15.390. Execution of notes. Notes for money borrowed in anticipation of receipts from the sale of bonds shall be signed by the governor and countersigned by the lieutenant governor. The governor's signature may be a facsimile signature. (§ 1 ch 42 SLA 1964)

Revisor's note (1971). — In this section "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing the designation of that office.

Article 3. International Airports Revenue Bonds.

Section
410. Bond authorization
420. Construction fund
430. Revenue fund
440. Redemption fund
450. Bond terms
460. Bond resolution
470. Enforcement by holder
480. Amounts required for payments
490. Bond negotiability
500. Airport charges
510. State improvements to airports
520. Refunding
530. Bonds as legal investments
540. Statutory construction
550. Definitions

Editor's note. — Section 2, ch. 149, SLA 1972, provides: "For the purpose of carrying out the provisions of AS 37.15.410 — 37.15.550, there is appropriated from the International Airports Construction Fund the sum of

"(1) $9,225,000, together with the amounts of any grant or other money paid into the fund for the same purpose, for acquisition, construction and equipping of facilities previously funded through revenue bond issues dated June 1, 1968 and June 1, 1969 (authorized by ch. 80, SLA 1968);

"(2) $8,700,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Anchorage International Airport (authorized by ch. 173, SLA 1970);

"(3) $2,000,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Fairbanks International Airport (authorized by ch. 173, SLA 1970); and

"(4) $11,300,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Anchorage and Fairbanks International Airports (authorized by ch. 149, SLA 1972)."

Section 4, ch. 149, SLA 1972, provides: "This Act codifies the 'temporary' law pertaining to the international airport revenue bonds. The repeal of statutes by sec. 3 of this Act does not affect existing bonds or actions that have been taken under the repealed provisions."

Legislative committee report. — For report on ch. 149, SLA 1972 (CSHB 531), see 1972 House Journal, p. 1233.

Sec. 37.15.410. Bond authorization. For the purpose of providing part or all of the money to be used, with or without any grants or other money which may become available, the issuance and sale of revenue bonds of the state in the total principal sum of not to exceed $34,825,000 is authorized to acquire, equip, construct and install the additions, improvements, extensions and facilities authorized in § 510 of this chapter. The principal of and interest on these bonds shall be paid out of and secured by the gross revenues derived by the state from the

ownership, lease, use and operation of the airports, and of all the facilities of them and out of any other revenues or money which the state legislature may provide exclusive of any state tax or license. (§ 1 ch 149 SLA 1972; am § 1 ch 66 SLA 1974)

Effect of amendment. — The 1974 amendment substituted "$34,825,000" for "$31,225,000" in the first sentence.

Sec. 37.15.420. Construction fund. (a) There is a special fund of the state known as the "International Airports Construction Fund," into which shall be paid the proceeds of the sale of the bonds (except any accrued interest paid on them, which shall be paid into the bond redemption fund) and any grant or other money which is legally provided for the same purposes for which the bonds are authorized. The money in the construction fund shall be used to pay the costs of acquiring, equipping, constructing and installing additions and improvements to and extensions of and facilities for the airports and costs incidental thereto, including costs of the authorization, issuance and sale of the bonds. To the extent provided in the bond resolution, money in the construction fund may also be used for the payment of interest on the bonds during the period of actual construction, and for such further period, not exceeding one year after the period of construction, as may be provided in the bond resolution. Money in the construction fund may also be transferred to the bond redemption fund, to the extent provided in the bond resolution, to establish a reserve for the payment of the principal of and interest on the bonds.

(b) The bond resolution may provide for the investment of money in the construction fund in such manner as the committee may determine. The interest earned upon or any profits derived from the sale of this investment shall be deposited in and become a part of the construction fund. (§ 1 ch 149 SLA 1972)

Editor's note. — Section 2, ch. 149, SLA 1972, provides: "For the purpose of carrying out the provisions of AS 37.15.410 — 37.15.550, there is appropriated from the International Airports Construction Fund the sum of

"(1) $9,225,000, together with the amounts of any grant or other money paid into the fund for the same purpose, for acquisition, construction and equipping of facilities previously funded through revenue bond issues dated June 1, 1968 and June 1, 1969 (authorized by ch. 80, SLA 1968);

"(2) $8,700,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Anchorage International Airport (authorized by ch. 173, SLA 1970);

"(3) $2,000,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Fairbanks International Airport (authorized by ch. 173, SLA 1970); and

"(4) $11,300,000 for the acquisition, construction and equipping of airport facilities as authorized in AS 37.15.510 at Anchorage and Fairbanks International Airports (authorized by ch. 149, SLA 1972)."

Sec. 37.15.430. Revenue fund. (a) There is another special fund of the state, known as the "International Airports Revenue Fund," which shall be completely segregated and set apart from all other funds of the state, which is a trust fund for the uses and purposes provided in §§ 410 — 550 of this chapter, and into which shall be paid all revenues, fees, charges and rentals derived by the state from the ownership, lease, use and operation of the airports and all of the facilities and improvements of them and facilities and improvements used in connection with them. These revenues, charges, fees and rentals shall not include the proceeds of any state tax or license. The money in the revenue fund shall only be used for the purpose of paying or securing the payment of the principal of and interest on the bonds and of and on any other revenue bonds issued by authorization of the legislature to provide funds to acquire, equip, construct and install additions and improvements to, and extensions of and facilities for, the airports and to be payable out of the revenue fund, the purpose of paying the normal and necessary costs of maintaining and operating the airports and all of the improvements and facilities of them, the purpose of paying the costs of renewals, replacements and extraordinary repairs to the airports and all of the improvements and facilities of them, the purpose of redeeming before their fixed maturities any and all revenue bonds issued for the purposes of the airports, the purpose of providing funds to acquire, construct and install necessary additions and improvements to and extensions of and facilities for the airports and all of their facilities, and the purpose of providing funds to pay any and all other costs relating to the ownership, use and operation of the airports.

(b) The investment of money in the revenue fund may be made in such manner as the committee may determine. The interest earned upon or any profits derived from the sale of this investment shall be deposited in and become a part of the revenue fund. (§ 1 ch 149 SLA 1972)

Sec. 37.15.440. Redemption fund. There is another special fund of the state, known as the "International Airports Revenue Bond Redemption Fund," which is a trust fund for paying and securing the payment of the principal of and interest and redemption premium, if any, on the bonds and which shall be at all times completely segregated and set apart from all other funds of the state. The committee, on behalf of the state, shall obligate and bind the state to set aside and pay into the bond redemption fund any part or parts of, or all of, or a fixed proportion of, or a fixed amount of the money in the revenue fund sufficient to pay the principal of and interest and redemption premium, if any, on the bonds as the payments become due and, if it considers it necessary, to set aside and maintain reserves for this purpose. The bond redemption fund shall be drawn upon for the purpose of paying the principal of and interest and redemption premium, if any, on the bonds, and the bonds do not constitute a general obligation of the state. (§ 1 ch 149 SLA 1972)

Sec. 37.15.450. Bond terms. (a) The bonds shall be sold in such amounts or series and at such time or times as determined by the committee. Before selling a series of bonds, the committee shall give notice inviting sealed bids in such manner as it may prescribe. If satisfactory bids are received, the bonds offered for sale shall be awarded to the highest responsible bidder. If the committee determines that the bids received are not satisfactory as to price or responsibility of the bidders, it may reject all bids received. The bonds, or each series of them, shall be sold at such a price so that the effective interest rate over the life of the bonds does not exceed eight per cent per year. Interest shall be payable annually or semiannually.

(b) The bonds shall mature at such time or times as fixed by the committee. The bonds may be subject to redemption before their fixed maturities as determined by the committee and with such premium or premiums as fixed by the committee, but no bond may be subject to redemption before its fixed maturity date unless the right so to redeem that bond is expressly mentioned on the face of the bond. The bonds may be in denominations determined by the committee; may be issued in coupon form or in fully registered form, and may be registrable as to principal or both principal and interest, all under such regulations and conditions as the committee shall provide; shall be payable as to principal and interest at such place or places as may be determined by the committee; shall be signed on behalf of the state by the governor and shall be attested by the lieutenant governor, both of which signatures may be facsimile signatures; shall have the seal of the state impressed, printed or lithographed on them, and each of the interest coupons attached to them shall be signed by the facsimile signatures of these officials; shall be issued under and subject to such terms, conditions and covenants providing for the payment of the principal of them and interest on them and such other terms, conditions, covenants and protective features safeguarding this payment and relating to the maintenance, operation and improvement of the airports as found necessary by the committee, which covenants may include a provision requiring the setting aside and maintenance of certain reserves to secure the payment of this principal and interest. The committee may provide that any additional bonds authorized after June 27, 1972 by the legislature to be payable out of the same source or sources as the bonds authorized as of that date may later be issued on a parity with the bonds authorized as of that date upon compliance with any conditions which the committee may prescribe.

(c) If found reasonably necessary, the committee may select a trustee or trustees for the holders of the bonds or any series of them, for the safeguarding and disbursement of any of the money in any of the funds created by §§ 420, 430 and 440 of this chapter, or for such duties with respect to the authentication, delivery and registration of the bonds as

the committee may determine, and shall fix the rights, duties, powers and obligations of the trustee or trustees.

(d) In its determination of all of the matters and questions relating to the issuance and sale of the bonds and the fixing of the maturities, terms, conditions and covenants of them as provided in (a), (b) and (c) of this section, the decisions of the committee shall be those found to be reasonably necessary for the best interests of the state and its inhabitants, and those which will accomplish the most advantageous sale of the bonds, with due regard, however, to necessary or normal costs of maintenance and operation, renewals and replacements of and repairs to the airports and to all improvements to them and facilities of them owned, used, operated or leased in connection with them, the future growth and expansion of the airports and all of such facilities, and the possibility of additional revenue bond financing for airports purposes. Any such decisions of the committee, as expressed in any bond resolution, are final and conclusive when any bonds have been issued pursuant to the bond resolution.

(e) A bond resolution may provide that the bonds issued shall contain a recital that they are issued under §§ 410 — 550 of this chapter, and any such bonds containing this recital shall be conclusively considered to be valid and to have been issued in conformity with §§ 410 — 550 of this chapter.

(f) The validity of the authorization and issuance of bonds is not affected by any proceedings for the acquisition or construction of the additions, improvements, extensions or facilities for which the bonds have been issued or by any contracts in connection with the acquisition or construction. (§ 1 ch 149 SLA 1972; am §§ 1, 2 ch 19 SLA 1973)

Revisor's note (1973). — AS 37.15.450 was derived from § 7, ch. 88, SLA 1961, as amended by § 8, ch. 62, SLA 1968 and § 3, ch. 173, SLA 1970. In the last sentence of what is now designated subsection (b), the only differences between the wording here and in those earlier versions are that "hereafter" was changed to "after the effective date of this Act" and "authorized by this Act" (in two places) was changed to "authorized as of that date." The latter change suggests that the date referred to in the former change is June 27, 1972, the effective date of the Act putting these provisions in the Alaska Statutes, rather than April 15, 1961, the effective date of the original international airports bond authorization Act. Therefore, under AS 01.05.031(b)(5), the 1972 date has been inserted in the text.

Sec. 37.15.460. Bond resolution. The committee is authorized and directed to adopt the bond resolution and prepare all other documents and proceedings necessary for the issuance, sale and delivery of the bonds or any part or series of them. The bond resolution shall fix the principal amount, denomination, date, maturities, place or places of payment, rights of redemption, if any, terms, form, conditions and covenants of the bonds or each series of them. The committee shall also determine and provide for the date and manner of sale of the bonds, and shall provide whether the notice of sale is to be published elsewhere in

addition to the publication required by § 450 of this chapter. (§ 1 ch 149 SLA 1972)

Sec. 37.15.470. Enforcement by holder. The holder of any bonds or the trustee for the holders of the bonds or any series of them, may by appropriate proceedings in the courts of record of the state, require and compel the transfer, setting aside and payment of money and the enforcement of all of the terms, conditions and covenants as required and provided in §§ 410 — 550 of this chapter and in the bond resolution. (§ 1 ch 149 SLA 1972)

Sec. 37.15.480. Amounts required for payments. The committee shall, before December 31 of each year, commencing with the year in which the bonds are issued, certify to the commissioners of revenue and transportation and public facilities the amounts required in the next ensuing calendar year by the bond resolution or resolutions to be paid out of the revenue fund into the bond redemption fund and to be paid into and maintained in any reserve fund or account or any other fund or account created by the bond resolution or resolutions, and shall also certify to the commissioners the last date or dates upon which payments may be made. (§ 1 ch 149 SLA 1972)

Editor's note. — Pursuant to Executive Order No. 39 (1977), the reference to the commissioner of transportation and public facilities has been substituted for a reference to the commissioner of public works near the middle of the section.

Sec. 37.15.490. Bond negotiability. The bonds and the coupons attached to them are fully negotiable instruments under the laws of the state. (§ 1 ch 149 SLA 1972)

Sec. 37.15.500. Airport charges. The commissioner of transportation and public facilities shall fix and collect such fees, charges and rentals derived by the state from the ownership, lease, use and operation of the airports and all of the facilities and improvements of them or used in connection with them as will provide revenues sufficient to comply with all of the covenants of the bond resolution. (§ 1 ch 149 SLA 1972)

Editor's note. — Pursuant to Executive Order No. 39 (1977), the reference to the commissioner of transportation and public facilities has been substituted for a reference to the commissioner of public works.

Sec. 37.15.510. State improvements to airports. The state is authorized to acquire, equip, construct and install additions and improvements to and extensions of the airports, facilities for the landing, parking, loading, storing, repairing, safety and utility of aircraft at the airports and passenger, freight and terminal facilities, including safety equipment and devices at the airports, found to be necessary by the commissioner of transportation and public facilities. (§ 1 ch 149 SLA 1972)

Editor's note. — Pursuant to Executive Order No. 39 (1977), the reference to the commissioner of transportation and public facilities has been substituted for a reference to the commissioner of public works at the end of the section.

Sec. 37.15.520. Refunding. (a) The bonds or any part of them may be refunded at or before their maturity by the issuance of refunding revenue bonds of the state if in the opinion of the committee refunding is advantageous to and in the best interests of the state and its inhabitants.

(b) The issuance of refunding bonds need not be authorized by an Act of the legislature, and the committee is authorized and directed to adopt the resolution or resolutions and prepare all other documents and proceedings necessary for the issuance, exchange or sale, and delivery of such bonds. All provisions of §§ 410 — 550 of this chapter applicable to revenue bonds are applicable to the refunding bonds and to the issuance, sale or exchange of them, except as otherwise provided in this section.

(c) Refunding bonds may be issued in a principal amount sufficient to provide funds for the payment of all bonds to be refunded by them, and, in addition, for the payment of all expenses incident to the calling, retiring or paying of the outstanding bonds, and the issuance of the refunding bonds. These expenses include the difference in amount between the par value of the refunding bonds and any amount less than par for which the refunding bonds are sold, any amount necessary to be made available for the payment of interest upon the refunding bonds from the date of sale of them to the date of payment of the bonds to be refunded or to the date upon which the bonds to be refunded will be paid pursuant to the call of them or agreement with the holders of them, and the premium, if any, necessary to be paid in order to call or retire the outstanding bonds and the interest accruing on them to the date of the call or retirement. (§ 1 ch 149 SLA 1972)

Sec. 37.15.530. Bonds as legal investments. The bonds are legal investments for all banks, trust companies, savings banks, savings and loan associations and other persons carrying on a banking business, all insurance companies and other persons carrying on an insurance business, and all executors, administrators, trustees and other fiduciaries. The bonds may be accepted as security for deposits of all funds of the state and its political subdivisions. (§ 1 ch 149 SLA 1972)

Sec. 37.15.540. Statutory construction. Sections 410—550 of this chapter shall be liberally construed in order to carry out the purposes for which they were enacted, and all existing laws in conflict with any of these sections are superseded insofar as necessary to accomplish the purposes of and carry out the provisions of these sections. (§ 1 ch 149 SLA 1972)

(1) "airports" means the international airports owned and operated by the state and located at or near the cities of Anchorage and Fairbanks;

(2) "bond redemption fund" means the International Airports Revenue Bond Redemption Fund created by § 440 of this chapter, including any accounts which are created in that fund after the effective date of this Act;

(3) "bond resolution" means the resolution or resolutions authorizing the issuance of bonds, adopted by the committee under § 460 of this chapter;

(4) "bonds" means the international airports revenue bonds authorized by §§ 410 — 550 of this chapter;

(5) "commissioner of transportation and public facilities" means the principal executive officer of the Department of Transportation and Public Facilities of the state as provided in AS 44.42.010, or his successor;

(6) "commissioner of revenue" means the principal executive officer of the Department of Revenue of the state as provided in AS 44.25.010, or his successor;

(7) "committee" means the state bond committee created by § 110 of this chapter, or any other committee, body, department or officer of the state which or who succeeds to the rights, powers, duties and obligations of the state bond committee by lawful Act of the legislature;

(8) "construction fund" means the International Airports Construction Fund created by § 420 of this chapter;

(9) "revenue fund" means the International Airports Revenue Fund created by § 430 of this chapter. (§ 1 ch 149 SLA 1972)

Editor's note. — Pursuant to Executive Order No. 39 (1977), the references to the commissioner of transportation and public facilities, the Department of Transportation and Public Facilities, and AS 44.42.010 have been substituted for references to the commissioner of public works, the Department of Public Works, and AS 44.43.010.

Chapter 20. Acceptance of Federal Funds.

Section
10. Acceptance of federal grants and transfers of property
20. Federal Transitional Grants Account
30. Jurisdiction of accepted property
40. Alaska Native Fund

Sec. 37.20.010. Acceptance of federal grants and transfers of property. The governor is authorized to accept on behalf of the state all federal grants and transfers of property of an emergency, transitional or omnibus nature upon conditions imposed by the federal government. (§ 1 ch 176 SLA 1959)

Transitional Grants Account. All grants of money accepted under this chapter shall be deposited in this special account. (§ 2 ch 176 SLA 1959)

Sec. 37.20.030. Jurisdiction of accepted property. (a) All chattels accepted under the provisions of §§ 10 and 20 of this chapter are subject to the jurisdiction of the Department of Administration for distribution to the appropriate department.

(b) All lands accepted under the provisions of §§ 10 and 20 of this chapter are subject to the jurisdiction of the Department of Natural Resources.

(c) All public buildings accepted under the provisions of §§ 10 and 20 of this chapter are subject to the jurisdiction of the Department of Transportation and Public Facilities. (§§ 3 — 5 ch 176 SLA 1959)

Editor's note. — Pursuant to Executive Order No. 39 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works.

Jurisdiction. — The Department of Administration has primary jurisdiction over the disposal of all chattels owned by the state or any other property which may conveniently be handled separately from the land, without regard to whether it is located on lands under the jurisdiction of the Department of Public Works [now Department of Transportation and Public Facilities] or the Department of Natural Resources, except that in the case of buildings, the ordinary fixtures of the buildings will follow the jurisdiction of the buildings. 1961 Op. Att'y Gen., No. 9.

Sec. 37.20.040. Alaska Native Fund. The amount required by federal law to be paid into the Alaska Native Fund established by P. L. 92-203 is not revenue of the state, except for the purpose of calculating the amount to be placed in the Alaska Permanent Fund, and shall be paid by the commissioner of revenue to the Alaska Native Fund directly on receipt. (§ 1 ch 107 SLA 1977)

Chapter 25. Miscellaneous Provisions.

Section
10. Unexpended balances of one-year appropriations
20. Unexpended balances of appropriation for capital projects

Sec. 37.25.010. Unexpended balances of one-year appropriations. (a) The unexpended balance of a one-year appropriation authorized in an appropriation bill lapses on June 30 of the fiscal year for which appropriated. However, a valid obligation (encumbrance) existing on June 30 is automatically reappropriated for the fiscal year beginning on the succeeding July 1 if it is recorded with the Department of Administration by August 31 of the succeeding fiscal year.

(b) An indebtedness arising from a prior year for which the appropriation has lapsed shall be paid from the current year's appropriations, if (1) this expenditure does not exceed the balance lapsed;

SB
606

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

November 19, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSHB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 386, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 820, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSHB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSHB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

SB 606 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,

Lois J. Cook

Lois J. Cook
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Bank Holding Companies: A bank holding company is a nonbank corporate organization serving as the parent organization for at least one or more banking subsidiaries. There are both multibank (consolidating ownership of several banks) and one bank holding companies (one bank and several nonbank subsidiaries) which have increased in importance since the mid-1960's. By 1977, more than 2/3's of all bank deposits were in banks controlled by holding companies. They serve as a vehicle for diversification and a source of funds for their subsidiary banks. The Federal Reserve Board has been given broad powers to regulate bank holding companies.

PENINSULA SAVINGS AND LOAN ASSOCIATION
Alaska's First State Savings and Loan Association

November 20, 1981

Mr. Michael Thill
Committee Aide
Senate Labor and Commerce
Alaska State Legislature
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Thill:

In reply to your letter of November 10th, regarding SB 606 that was introduced in final days of the 1981 legislature.

The holding company approach is best because it will allow the respective Alaskan bank to maintain its seperate identity and be more readily accepted by the public.

Competitive competition is a healthy environment and will benefit the consumer residents of Alaska. In addition, more private capital is needed for the continued growth of commercial projects in the state.

The primary lender on large projects are often times outside financial institutions. Therefore it would be preferable for these ventures to be originated in Alaska.

I would therefore support SB 606 because of its benefit to the consumer residents.

Sincerely,

Eddie J. Turner
President

Blazy Mall - Sterling Highway
Pouch 1000
Soldotna, Alaska 99669
907/262-9166

Pioneer Avenue
P.O. Box 1985
Homer, Alaska 99603
907/235-7735

PEOPLES BANK AND TRUST

POUCH 7007 • 8TH AND G STREET • ANCHORAGE, ALASKA 99501 7007 • (907) 276-8080

DONALD V. RHODES,
President
& Chief Exec. Officer

December 23, 1981

Mr. Michael Thill,
Committee Aide
Senate Labor and Commerce
Alaska State Legislature
Pouch "V"
Juneau, Ak 99811

RE: SENATE BILL #606

Dear Mr. Thill,

I am writing in response to your letter of November 10, 1981 which requested comment on the issue of changing the laws relating to the ownership of financial institutions.

We generally support the idea of allowing out-of-state holding companies to enter the Alaskan market place through the acquisition of existing banks. We feel that the specific bill you enclosed is not satisfactory because it would not prevent out-of-state banks from forming a new bank in our state and then immediately buying the new organization. We feel that any change in the law should provide for a minimum 5-year term, and probably closer to 10 years, before a newly formed bank could be acquired.

We also question the need for an out-of-state holding company to post a bond, assuming that any such transaction would require Federal regulatory approval, which would not be granted unless the acquiring institution was in sound financial condition.

These comments are particularly directed at the specific bill and also directed at the particular circumstance. I would be pleased to discuss the matter with you more fully at your convenience and/or as other bills surface during the fourth-coming legislative session.

Sincerely,

Donald V. Rhodes

Donald V. Rhodes,
President & Chief Executive Officer

DVR/su

AlaskaPacificBank
A Subsidiary of Alaska Pacific Bancorporation

December 4, 1981

Mr. Michael Thill
Committee Aide
Senate Labor and Commerce Committee
Pouch V
State Capital
Juneau, Alaska 99811

Dear Mr. Thill:

Thank you very much for giving me the opportunity to comment on Senate Bill #606.

We are still in the process of developing our posture related to the interstate banking issue; however, I will comment on one minor item in the bill. In Section 2 Paragraph (e), reference is made to acquiring and owning the stock of a state bank. This should probably include national banks as well.

This is an extremely important piece of legislation and when we complete our thorough analysis and the development of our position, I will be back in contact with you.

Cordially,

Robert R. Richards
President

101 W. BENSON BLVD. • POST OFFICE BOX 420 • ANCHORAGE, ALASKA 99510 • PHONE (907) 276-3110 • TELEX 090-25-380

1ST SINCE 1905
First National Bank
OF FAIRBANKS

November 25, 1981

Mr. Michael Thill
Committee Aid
Senate Labor &
Commerce Committee
Pouch B, State Capital
Juneau, Alaska 99811

Dear Mr. Thill:

In response to your inquiry concerning SB 606, the Alaska Banker's Association is currently putting together a bill that we would find acceptable. We do not find SB 606 to be acceptable. Rather than elaborate on the unacceptable points, we prefer to wait for the Banker's Associations' consensus to be presented, then I would be happy to answer any questions you might have concerning that bill.

Sincerely yours,

Marc Langland
President

2nd & CUSHMAN • P.O. BOX 1230 • FAIRBANKS, ALASKA 99707 • TELEPHONE (907) 452-2146

ALASKA FEDERAL SAVINGS

ADMINISTRATIVE OFFICES
(907) 586-1015 586-1017
311 NORTH FRANKLIN ST.
JUNEAU, ALASKA 99801

November 20, 1981

Mr. Michael Thill
Senate Labor and Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Thill:

Thank you very much for your letter of November 10th regarding Senate Bill 606.

We are concerned on the effect of the above bill as it appears that this piece of legislation is lacking in two areas:

1. The legislation, as written, is fairly restrictive, in that it does not provide the opportunity for all financial institutions (credit unions, Federal and state chartered savings and loans, Federal and State chartered banks) the same opportunity to be owned or controlled by owners outside of Alaska.

2. Most importantly, we are concerned that the continued availability of loans or credit for the typical Alaskan household or business.

Is is entirely possible that when the ownership of a financial institution moves outside the State of Alaska, the new owners will compare Alaska loan applications with loan applications from their customers in their home State. The result, I fear, may mean a shortage of loanable funds for Alaskans, as our typical local credits do not compare on paper with their counterparts outside the State of Alaska.

We may find a situation developing similar to the market acceptance of Alaska Bonds which, in spite of all our wealth and potential, still does not have the same good credit rating as the commercially developed areas of our country.

We have no objection to the intent, as long as the above two areas are resolved to your satisfaction.

Thank you for the opportunity to comment on this legislation.

Yours truly,

L.C. Coffman
President

cc: Rick Lauber
Willis Kirkpatrick,

LCC:ss

NATIONAL Bank of Alaska
Corporate Headquarters P.O. Box 600 • Anchorage, Alaska 99510 • (907) 276-1132

November 18, 1981

Mr. Michael Thill
Alaska State Legislature
Senate
Labor & Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Michael:

We have received Senate Bill 606 dated June 24, 1981.

We do not think this bill is properly drafted to allow interest banking. By the time the session is under way our attorneys may possibly have reviewed it and given us some suggestions. We do not oppose nor support the bill at this time but will be willing to give you any technical advice that you may want.

Best regards,

Richard T. Hall
Senior Vice President

RTH/dlk

THE B.M. BEHRENDS BANK
P. O. BOX 1367 JUNEAU, ALASKA 99802
(207) 586-6800

REMINGTON LOW
PRESIDENT & CHAIRMAN OF THE BOARD

November 27, 1981

Mr. Michael Thill, Committee Aide
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Mr. Thill:

Personally I could live with Senator Ferguson's bill although I beleive that the Alaska Bankers Association is coming up with one that will be slightly better.

It is my understanding that the bankers bill will put a limitation o any banks being started up and then immediately sold to outside banks. This limitation is necessary to prevent outside banks from furnishing the seed money to start the banks and then immediately acquiring them. A newly created bank should not be able to sell to an outside bank for a period of at least five years to prevent abuse.

Sincerely,

REMINGTON LOW
President and Chairman
of the Board

RL:dd

alaska national
bank of the north

W. PETER RAMBERG
VICE CHAIRMAN of the BOARD
and CHIEF EXECUTIVE OFFICER

November 18, 1981

Mr. Michael Thill
Committee Aide
Senate Labor and Commerce
Pouch V, State Capitol
Juneau, AK 99811

Dear Mr. Thill:

It is a pleasure to reply to your letter of November 10 addressed to Mr. Li-pei Wu, who resigned from the bank last July.

Our thoughts on the proposed Senate Bill 606 are that we favor permitting out-of-state bank holding companies to acquire any bank in the state of Alaska, either state-chartered or operating under a national charter like ourselves. However, we oppose any action permitting out-of-state banks to establish branches within this state.

Furthermore, we would favor, if possible, obtaining reciprocal permission from states in which out-of-state holding companies might be domiciled. For example, if California bank holding companies were to be allowed to acquire banks in Alaska, we would like to see Alaska holding companies permitted to acquire banks in California. We do not, however, consider such reciprocity an essential feature to our first position.

Should you have any further questions, please do not hesitate to let me know.

Sincerely yours,

W. Peter Ramberg

P.O. BOX 60730 •FAIRBANKS, ALASKA 99706 • (907) 479-2281

W.J. STRIKE
DEPUTY STATE EXAMINER
307-777-7798

K.H. MCILHENNY
SENIOR BANK EXAMINER
307-777-7797

D.C. PEASLEY
WYO. UNIFORM CONSUMER CREDIT CODE
307-777-7775

State of Wyoming

ED HERSCHLER
GOVERNOR

OFFICE OF STATE EXAMINER

819 WEST PERSHING BLVD.
CHEYENNE, WYOMING 82002

DWIGHT D. BONHAM
STATE EXAMINER

November 16, 1981

Michael Thill, Committee Aide
Labor and Commerce Committee
Alaska State Legislature
Senate
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Thill:

Responding to your letter of November 10, 1981 please be advised that Wyoming statutes are silent on the matter of out-of-state holding companies owning stock in our state banks. We feel comfortable with the present Federal holding company prohibition on out-of-state purchases or control.

The newly proposed "emergency" bail out of troubled financial institutions is of concern to Wyoming and required a personal visit to our Senators in Washington, D.C., incident to the Conference of State Bank Supervisors Federal Legislative Conference.

Sincerely,

Dwight D. Bonham

Dwight D. Bonham
State Examiner

DDB/cp

JAMES A. RHODES
Governor

J. GORDON PELTIER
Director of Commerce

STATE OF OHIO
Department of Commerce
Division of Banks
Two Nationwide Plaza Columbus, Ohio 43215
(Corner Chestnut & High Streets)

FREDERICK E. MILLS
Superintendent of Banks

Telephone:
Area Code 614-466-2932

November 25, 1981

Mr. Michael Thill
Committee Aide
Senate Labor and Commerce Committee
Pouch V
State Capitol
Juneau, Alaska 99811

Dear Mr. Thill:

This reply is in response to your recent letter asking whether Ohio law permits out-of-state bank holding companies to participate in the acquisition and ownership of the voting shares or other capital stock of state-chartered banks.

Ohio law is void of any laws or regulations relative to the formation or operation of bank holding companies. Further, we are not aware of any pending legislation in this area. Federal regulations in this area would be deferred to, and, if applicable, Ohio law does have a provision prohibiting foreign banking (O.R.C. 1101.05).

I trust this reply is responsive to your request.

Very truly yours,

Frederick E. Mills
Superintendent of Banks

Alaska Statutes

Title 6. Banks and Financial Institutions.

Chapter

01. Administration (§§ 06.01.010 — 06.01.050)
05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
25. Trust Companies (§§ 06.25.010 — 06.25.350)
30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
40. Premium Financing Act (§§ 06.40.010 - 06.40.190)

Chapter 01. Administration.

Section

10. Examination fees and assessments
20. General powers of department
30. Orders and injunctions; notice and hearings; regulations
40. Examination policy
50. Definitions

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.01.010. Examination fees and assessments. (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of them, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed $7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than $100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

(1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

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(e) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of the corporation. (§ 8 ch 157 SLA 1970)

Legislative committee report. — For report on ch. 157, SLA 1970 (CSHB 643 (Judiciary)), see 1970 House Journal, p. 1085.

Sec. 06.05.232. Leasing of real and personal property. (a) The department may authorize a bank to become the owner and lessor of real or personal property acquired upon the specific request of and for the use of a customer, if

(1) the original lease is executed in writing before acquisition of the property to be leased;

(2) the terms of the lease require payment to the bank during the minimum period of the lease of an amount of money that will exceed the total expenditure by the bank for acquisition, ownership, maintenance and protection of the property;

(3) the total of the expenditures by the bank for acquisition, ownership, maintenance and protection of the leased property and other loans to any one lessee by the bank do not exceed the limits on loans to one borrower under § 205 of this chapter;

(4) in the case of real property, the lease agreement provides that upon its expiration the lessee will become owner of the property;

(5) Repealed by § 4 ch 56 SLA 1971.

(b) The aggregate investment in property under this section and §§ 230(1) and 231 of this chapter may not exceed the bank's combined capital, surplus and undivided profits.

(c) Payments by a lessee to a bank for property leased under this section are considered rent rather than interest.

(d) Real property retained by a bank upon termination of a lease authorized under this section, as the result of default by the lessee, shall be utilized or disposed of as provided by regulation of the department. (§ 9 ch 157 SLA 1970; am § 4 ch 56 SLA 1971)

Legislative committee report. — For report on ch. 157, SLA 1970 (CSHB 643 (Judiciary)), see 1970 House Journal, p. 1085.

Sec. 06.05.235. Bank holding companies. (a) It is unlawful for a company to own, control or hold with power to vote 25 per cent or more of the capital stock of one or more state banks or state bank holding companies subject to regulation under this chapter. Nothing in this subsection prohibits a company from qualifying as a bank holding company under (b) of this section. However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more banks or bank holding companies constituting more than 25 per cent of the ownership or control of a bank or bank holding company in payment of indebtedness owing to the creditor, shares of stock may be

accepted, but the shares of the one or more banks or bank holding companies exceeding that 25 per cent shall be promptly disposed of under the supervision of the department.

(b) A domestic bank holding company, as defined in § 540 of this chapter and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting shares or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies. The department may require a holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of bank stock directly or indirectly owned, held, or controlled by it under conditions the department may prescribe to assure full protection of the public. The holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The holding company shall pay an examination fee in accordance with AS 06.01.010.

(c) The department may adopt regulations for bank holding companies to assure financially sound banking organization and practice.

(d) A person, or an officer, director, agent, or employee of the person, who violates a regulation adopted under (c) of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both; and in the case of a corporation, by a fine of not more than $10,000. (§ 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 1 ch 124 SLA 1966; am § 18 ch 218 SLA 1976; am § 16 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment, in this section as it existed prior to the 1978 amendment, deleted "of commerce" following "commissioner" at the end of the third sentence of subsection (a), in the first, second, and third sentences of subsection (b), and in subsection (c).

The 1978 amendment rewrote this section.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.238. Required directors' meetings and statements to the department. The department may require a meeting of the board of directors of a state bank to be held in the manner and at the time and place it directs, when, in the judgment of the department, a serious violation of this chapter is involved. Any report of an examination required or allowed by this chapter, any conclusions drawn from such an examination by the department, any recommendations made by the department relative to it, and any other matters concerning the operation and condition of the bank may be presented to the board of directors by the department. Each member of the board of directors

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 606
Title An Act Relating to the Ownership of Financial Institutions.
Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE November 12, 1981 PREPARED BY Willis F. Kirkpatrick
AGENCY Department of Commerce & Economic Development

SB
609

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 609; Comments from the Ombudsman, Jack Chenowith;

SB 609 was drafted in response to a situation concerning the flow of information from AHFC to the public. During September and October, interest rates jumped from 10% to 12%, and after members of the public began making inquiries of AHFC, the ombudsman received many complaints. The complaints referred to the mechanics of making administrative changes in AHFC, and the ombudsman began to research the issue.

Apparantly AHFC uses a seller services manual as a guideline for administrative actions, and senior staff members have made changes to the manual without the benefit of a public hearing or board sanctions. Public inquiry revealed that AHFC staff were referencing unwritten guidelines, creating further confusion to the public, and the bill was drafted as an effort to alleviate confusion and misinformation.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 609:

Amends AS 18.56.088 by adding a new sub-section: The board shall adopt regulations affecting:

1) Loan Standards
2) Practices or rules that effect borrower eligibility
3) loan service charges
4) Characteristics of housing eligible for loans

Sec. 18.56.052. Executive director. The corporation shall employ an executive director, who may not be a member of the board. The executive director shall be appointed by the board of directors and serves at the pleasure of the board. (§ 3 ch 167 SLA 1978)

Sec. 18.56.060. Employment of personnel. The board may appoint other officers and engage professional and technical advisors as independent contractors. The executive director may hire employees of the corporation and, subject to the approval of the board, engage professional and technical advisors under contract with the corporation. The board shall prescribe the duties and compensation of corporation personnel, including the executive director. (§ 1 ch 107 SLA 1971; am § 4 ch 167 SLA 1978; am § 16 ch 106 SLA 1980)

Effect of amendments. — The 1978 amendment rewrote this section.

The 1980 amendment added "including the executive director" at the end of the section.

Sec. 18.56.070. Personnel exempt from state Personnel Act. The personnel of the corporation are exempt from AS 39.25.010 — 39.25.220. (§ 1 ch 107 SLA 1971; am § 17 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment deleted "to the same extent as the personnel of the Alaska State Housing Authority" at the end of the section.

Sec. 18.56.080. Interdepartmental cooperation. All departments, agencies and public corporations of the state may provide information, services, facilities and loans to the corporation upon its request. The corporation shall, upon request, reimburse departments, agencies and public corporations of the state for services or facilities provided, loans advanced or expenses incurred on the corporation's behalf at the request of the corporation. (§ 1 ch 107 SLA 1971; am § 18 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "shall, upon request" for "may" following "The corporation" near the beginning of the second sentence, inserted "services or facilities provided" preceding "loans advanced" near the middle of the second sentence, deleted "for" preceding "expenses" near the middle of the second sentence, and added "at the request of the corporation" at the end of the section.

Sec. 18.56.085. Investment of state surplus. Repealed by § 77 ch 106 SLA 1980.

Editor's notes. — The repealed section derived from § 2 ch. 81 SLA 1972.

Sec. 18.56.088. Administrative procedure. (a) Except for AS 44.62.310 and 44.62.312, regarding public meetings, and AS

44.62.320(a) regarding legislative review of regulations, the Administrative Procedure Act (AS 44.62.010 — 44.62.650) does not apply to AS 18.56.010 — 18.56.210. The corporation shall make available to members of the public copies of the regulations adopted under (b) — (e) of this section. Within 45 days after adoption, the chairman of the board shall submit a regulation adopted under (b) — (e) of this section to the chairman of the Administrative Regulation Review Committee under AS 24.20.400 — 24.20.460. The provisions of AS 44.62.320(a) apply to regulations adopted under (b) — (e) of this section.

(b) The board may adopt regulations by motion or by resolution or in any other manner permitted by its bylaws.

(c) The board may adopt regulations to carry out the purposes of AS 18.56.010 — 18.56.210, and shall adopt regulations necessary for the following purposes:

(1) determination of borrower eligibility including, but not limited to, income limitations and the determination of remote, underdeveloped or blighted areas of the state;

(2) loan guidelines and terms including but not limited to maximum loan amounts and required loan-to-value ratios, but excluding mortgage loan interest rates;

(3) characteristics of housing eligible for loans or purchase of loans; and

(4) the qualifications of loan originators and servicers and the method of allocating amounts available for the purchase of loans.

(d) Except as provided in (e) of this section, at least 15 days before the adoption, amendment, or repeal of a regulation on a subject specified in (c) (1) — (4) of this section, the board shall give public notice of the proposed action by publishing the notice in at least three newspapers of general circulation in the state and by mailing a copy of the notice to every person who has filed a request for notice of proposed regulations with the board or the corporation. The public notice must include a statement of the time, place, and nature of the proceedings for the adoption, amendment, or repeal of the regulation and must include an informative summary of the proposed subject of the regulation. On the date and at the time and place designated in the notice, the board shall give each interested person or his authorized representative, or both, the opportunity to present statements, arguments, or contentions in writing, and shall give members of the public an opportunity to present oral statements, arguments, or contentions for a total period of at least one hour. The board shall consider all relevant matter presented to it before adopting, amending, or repealing a regulation. At a hearing under this subsection, the board may continue or postpone the hearing to a time and place which it determines. A regulation which is adopted, or its amendment or repeal, may vary in content from the informative summary specified in this subsection if the subject matter of the regulation, or its amendment or repeal,

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 the board's action in order for them to determine whether their interests could be affected by the board's action on that subject.

(e) A regulation or order of repeal on a subject specified in (c) of this section may be adopted as an emergency regulation or order of repeal if the board makes a finding in its order of adoption or repeal, 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 orderly operation of the corporation's loan and bonding programs. The requirements of (d) of this section do not apply to the initial adoption of an emergency regulation covering a subject specified in (c) (1) — (4) of this section; however, upon adoption of an emergency regulation, the board shall, within 10 days after adoption, give notice of the adoption in accordance with (d) of this section. No emergency regulation adopted under this subsection remains in effect more than 120 days unless the board complies with (d) of this section during the 120-day period.

(f) A regulation adopted under (b) — (e) of this section becomes effective immediately upon its adoption by the board, unless otherwise specifically provided by the order of adoption.

(g) The provisions of (b) — (e) of this section do not apply to regulations governing interest rates on the corporation's mortgage loan programs.

(h) The board shall adopt regulations in accordance with (a)—(f) of this section which establish a procedure by which a seller of mortgage loans may appeal a decision of the corporation not to purchase mortgage loans offered by the seller. (§ 5 ch 167 SLA 1978; am § 19 ch 106 SLA 1980)

Effect of amendments. — The 1980 amendment added subsection (h).

NOTES TO DECISIONS

Applied in Horowitz v. Alaska Bar Ass'n, Sup. Ct. Op. No. 2059 (File Nos. 4310, 4311), 609 P.2d 39 (1980).

Sec. 18.56.089. Executive Budget Act. The operating budget of the corporation is subject to the Executive Budget Act (AS 37.07.010 — 37.07.130) for fiscal years beginning after June 30, 1981. (§ 20 ch 106 SLA 1980)

Sec. 18.56.090. General powers. In addition to other powers granted in AS 18.56.010 — 18.56.210, the corporation may, for the purpose of providing housing for persons of lower and moderate income or persons located in remote, underdeveloped or blighted areas of the state and for its other corporate purposes,

SB

611

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SB 611:

Revises the criminal penalties for reckless operation of an aircraft to bring them into accord with the revised criminal code.

Provides for a class A misdemeanor for reckless or careless operation of an aircraft while under the influence of alcohol or drugs.

Class B misdemeanor:

1) operating an aircraft without a two-way radio
2) while a crew member is under the influence of alcohol or drugs;
3) to fly a land plane so low over water that it can not safely be landed on ground
4) or to fly with passengers under certain adverse weather conditions.

Currently, these violations are listed as misdemeanors, without the revised criminal code categories. No effective date provided.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SUMMARY SB 611:

Section 1: Relates to classes of misdemeanor offenses for various infractions of statutes and regulations affecting the operation of aircraft.

Section 2: Provides that a person operating a civil aricraft without a license or permit issued in accordance with this chapter and federal law is guilty of a class A misdemeanor. Further, a person who flies or causes a civil aircraft to be flown in this state, without a license or permit for that aircraft, is guilty of a class B misdemeanor.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

CRIMINAL DIVISION

POUCH KC – STATE CAPITOL
JUNEAU, ALASKA 99811

January 19, 1982

The Honorable Bob Mulcahy
Chairman, Senate Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Re: SB 611, Criminal Penalties for Unlawful Operation of Aircraft

Dear Senator Mulcahy:

Michael Thill of your staff recently requested that this department provide a fiscal note and position statement on SB 611, an Act revising the criminal penalties for unlawful operation of an aircraft. The attached fiscal note estimates that enactment of this bill will not have a fiscal impact on this department.

SB 611 revises the penalty structure for certain offenses involving the unlawful operation of an aircraft in a manner that is consistent with the penalty structure of the revised criminal code in Titles 11 and 12. In doing so, it authorizes terms of imprisonment up to a maximum of one year for offenses classified as class A misdemeanors and a maximum sentence of 90 days for offenses classified as class B misdemeanors. We believe that classifying offenses consistent with the penalty structure in the criminal code will help to insure a more rational grading of offenses in terms of seriousness, and we therefore support this bill.

03-C7LH

If we can be of further assistance to the committee on this bill, do not hesitate to contact me at your convenience.

Very truly yours,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: _____
Barry Jeffrey Stern
Assistant Attorney General

BJS:lb



District Court

State of Alaska

FOURTH JUDICIAL DISTRICT
604 BARNETTE STREET, RM. 329
FAIRBANKS, ALASKA
99701

CHAMBERS OF
HUGH H. CONNELLY, JUDGE

October 20, 1981

M.R. Charney,
Executive Director
Room 102 Behrends Bldg.
Juneau, Alaska 99811

Re: Criminal Penalties for
AS 02.35.030-Airmen License
Required (See AS 02.35.120
Penalty)
and
AS 02.30.030-Reckless Operation
(See AS 02.30.040 Penalty)

Dear Mr. Charney,

Recently I heard my second case involving Reckless Operation of an Aircraft in AS 02.30.030, and my first case of Operating a Civil Aircraft Without a License in AS 02.35.030, and would respectfully suggest that these two crimes be made either Class "C" felonies or Class "A" misdemeanors.

In regard to AS 02.30.030-Reckless Operation of Aircraft: When you consider that the operation of a motor vehicle while under the influence of intoxicating liquor or other habit forming drugs is a Class "A" misdemeanor carrying a maximum penalty of $5000.00 fine or 1 year in jail or both, and also carrying a mandatory minimum jail sentence with no provision for probation or parole on a first offense, the $500.00 maximum penalty with no possible jail sentence for the Operation of an Aircraft While Under the Influence of Intoxicating Liquor or Drugs appears to be grossly inadequate. When you consider the potential danger to passengers, the pilot himself, the aircraft, people at or near airports, and other aircraft which may be located

at and near airports, it is my recommendation that the offense of Reckless Operation of Aircraft should be a Class "C" felony, or at least a Class "A" misdemeanor.

In regard to AS 02.35.030-Airmen License Required: In my recent case a person was operating a Cessna 180 airplane without a license. It is respectfully recommended that the penalty provision found in AS 02.35.120 be changed to a Class "A" misdemeanor because of the petential danger to other aircraft, passengers and the public in and around airports.

Cordially,

Hugh H. Connelly
District Court Judge

HHC/ajw

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 611
Title Criminal Penalties for Unlawful Operation of Aircraft
Requested by Senate Labor & Commerce Committee Date 1/13/82

II. FISCAL DETAIL
Agency Affected Department of Law
Program Category Affected Administration of Justice
BRU, Program, Or Subprogram(s) Affected Prosecution
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

This bill restructures the penalties for certain offenses involving the unlawful operation of aircraft and is not expected to have any fiscal impact on the prosecution of cases or result in any additional costs.

IV. DATE January 15, 1982 PREPARED BY Barry J. Stern, Assistant Attorney General
AGENCY Department of Law
PHONE 465-3429

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

No. 2698), 566 P.2d 640 (1977); Johnson v. State, Sup. Ct. Op. No. 1656 (File No. 3424), 580 P.2d 700 (1978); Gonzales v. State, Sup. Ct. Op. No. 1831 (File No. 3348), 593 P.2d 257 (1979).

Stated in Wertz v. State, Sup. Ct. Op. No. 2069 (File No. 4683), 611 P.2d 8 (1980).

Sec. 12.55.135. Sentences of imprisonment for misdemeanors. (a) A defendant convicted of a class A misdemeanor may be sentenced to a definite term of imprisonment of not more than one year.

(b) A defendant convicted of a class B misdemeanor may be sentenced to a definite term of imprisonment of not more than 90 days unless otherwise specified in the provision of law defining the offense.

(c) A defendant convicted of assault in the third degree committed in violation of the provisions of an order issued under AS 09.55.600 or 09.55.610 shall be sentenced to a minimum term of imprisonment of 10 days. The execution of sentence may not be suspended and probation or parole may not be granted until the minimum term of imprisonment has been served. Imposition of sentence may not be suspended, except upon condition that the defendant by imprisoned for no less than the minimum term of imprisonment provided in this section, and the minimum sentence provided for in this section may not be otherwise reduced. (§ 12 ch 166 SLA 1978; am § 2 ch 139 SLA 1980)

Revisor's note. — Subsection (c) added by § 2, ch. 139, SLA 1980, refers to "assault in the third degree." However, § 6, ch. 102, SLA 1980, changed assault in the third degree to assault in the fourth degree and § 5, ch. 102, SLA 1980, adds a new assault in the third degree.

Cross references. — For classification of felonies and misdemeanors, see AS 11.81.250. For listing of fines, see AS 12.55.035.

Effect of amendment. — The 1980 amendment added subsection (c).

Editor's note. — Section 23, ch. 166, SLA 1978, in subsection (c), provides: "AS 12.55.125 — 12.55.185, enacted in sec. 12 of this Act, apply only upon conviction of the crime of murder in the first or second degree, kidnapping, or any crime classified as a class A, B, or C felony or a class A or B misdemeanor. For purposes of AS 12.55.125, 12.55.145, and 12.55.155, the court shall consider prior convictions whether committed before, on, or after the effective date of this Act."

AS 09.55.600 — 09.55.610, referred to in subsection (c), relate to injunctive relief in cases involving domestic violence.

Consecutive sentencing by district court permissible under former law. — See State v. Pete, Sup. Ct. Op. No. 372 (File No. 673), 420 P.2d 338 (1966), decided under former AS 11.05.010.

Sec. 12.55.140. Sentences for violations. A defendant convicted of a violation may be sentenced to pay a fine of not more than $300. (§ 12 ch 166 SLA 1978)

Cross references. — For classification of felonies and misdemeanors, see AS 11.81.250. For listing of fines, see AS 12.55.035.

Editor's note. — Section 23, ch. 166, SLA 1978, in subsection (c), provides: "AS 12.55.125 — 12.55.185, enacted in sec. 12 of this Act, apply only upon conviction of the crime of murder in the first or second degree, kidnapping, or any crime classified as a class A, B, or C felony or a class A or B misdemeanor. For purposes of AS 12.55.125, 12.55.145, and 12.55.155, the court shall consider prior convictions whether committed before, on, or after the effective date of this Act."

Sec. 12.55.14
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COMMITTEE REPORT

SENATE

FURTHER: Judiciary

1/11/82

Date: 8 FEBRUARY 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 611

revising criminal penalties for unlawful operation of an aircraft

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

(no)

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Zeph. R. Ruc

_____
CHAIRMAN

S 60 (Rev. 12/78)

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce Date: 8 February, 1982

Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler Senator Rodey was excused from a call of Senate;

Public hearing or committee meeting on: SB 513, SB 590, Sb 611

COMMITTEE CALENDAR

SB 611 "An act revising the criminal penalties for unlawful operation
bill number bill title of an aircraft."

bill number bill title

WITNESS REGISTER

Witness Name: Senator Bill Ray
Affiliation: Senator and sponsor of the bill
Address: Alaska State Legislature
Phone: 465-4921
Summarized Position Statement: Supported passage of the legislation and expounded on the circumstances which prompted its introduction;

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp
Action: Passed or Failed with individual recommendations
Voting Record: 2 do pass (Sen Mulcahy and Sen Fahrenkamp)
1 No recommendation (Senator Ziegler)

ACTION NARRATIVE

Tape Recording Number 0000 Chair opens at 013 with members 3 present etc.

Testimony of Senator Ray begins at tape reading 017 and continues through tape reading 164;

(6) "structure" means an object constructed or installed by man, including buildings, towers, smokestacks and overhead transmission lines;

(7) "tree" means any object of natural growth. (§ 1 ch 12 SLA 1951; am Executive Order No. 39, § 11 (1977)).

Effect of amendment. — The 1977 amendment substituted the reference to the Department of Transportation and Public Facilities for a reference to the Department of Public Works in paragraph (4).

Meaning of "bush airfield". — See McLemore v. Harris, Sup. Ct. Op. No. 102 (File No. 197), 374 P.2d 410 (1962).

Sec. 02.25.120. Short title. This chapter may be cited as the Airport Zoning Act. (§ 7 ch 12 SLA 1951)

Chapter 30. Operation of Aircraft.

Section	Section
10. Two-way radios required	30. Reckless operation
20. Unauthorized operation. [Repealed effective January 1, 1980]	40. Penalties
	50. Definitions

Sec. 02.30.010. Two-way radios required. It is unlawful to operate a commercial aircraft carrying passengers for a distance greater than 25 miles from an airport unless the aircraft is equipped with a two-way radio installation capable of transmitting and receiving for a distance of at least 50 miles under normal conditions. (§ 3 ch 128 SLA 1949)

Sec. 02.30.020. Unauthorized operation. [Repealed effective January 1, 1980] Any person who tampers with, taxies, flies or operates an aircraft without the consent of the owner without intent to steal it shall be guilty of a misdemeanor. The consent of the owner of the aircraft shall not be presumed or implied because of the owner's consent on a previous occasion. (§ 4 ch 128 SLA 1949)

Cross reference. — See AS 11.46.480 through 11.46.486, relating to criminal mischief, effective January 1, 1980.

Section repealed effective January 1, 1980. — Section 21, ch. 166, SLA 1978, repealed this section effective January 1, 1980.

Sec. 02.30.030. Reckless operation. (a) No person may operate an aircraft in the air or on the ground or water while under the influence of intoxicating liquor, narcotics, or other habit-forming drugs, or operate an aircraft in the air or on the ground or water in a careless or reckless manner so as to endanger the life or property of another. In a proceeding charging careless or reckless operation of aircraft in violation of this section, the court, in determining whether the operation was careless or reckless, shall consider the standards for safe operation of aircraft prescribed by federal statutes or regulations governing aeronautics.

(b) No person passenger who i habit-forming d

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Section

10. Federal law
20. Aircraft licen
30. Airman licen
40. Registration
50. Registration
60. Proper offic copies of li
70. Receipts for
80. Exceptions t
90. License and request

Sec. 02.35.0 principles, and Act of 1926, made applicab by federal law

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(b) No person may operate an aircraft occupied by a crew member or passenger who is obviously under the influence of intoxicating liquor or habit-forming drugs.

(c) No person may operate a single engine land plane over water at such an altitude as to make it impossible to effect a landing upon land or a beach in the event of a complete engine failure.

(d) The pilot of an aircraft carrying passengers shall not attempt to take off if there is a coating of snow, frost or ice on the wings or control surfaces of the aircraft in an amount sufficient to reduce the performance of the aircraft and endanger the occupants. (§ 5 ch 128 SLA 1949)

ALR references. — Negligence in connection with aircraft and aviation, 69 ALR 326; 83 ALR 352; 99 ALR 184.

Criminal offenses relating to aviation and aircraft, 69 ALR 337; 83 ALR 408; 99 ALR 209.

Sec. 02.30.040. Penalties. A person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500. (§ 7 ch 128 SLA 1949)

Sec. 02.30.050. Definitions. In this chapter "operate aircraft" means to use, navigate, pilot or taxi an aircraft in the airspace over this state, or upon the land or water inside this state. (§ 6 ch 128 SLA 1949)

Chapter 35. Uniform Air Licensing Act.

Section

10. Federal law followed
20. Aircraft license required
30. Airman license required
40. Registration of aircraft
50. Registration of airmen
60. Proper officer to make and certify copies of licenses
70. Receipts for certified certificates
80. Exceptions to application of chapter
90. License and permit to be exhibited on request
100. Temporary permit
110. Emergency rations and equipment
115. Downed aircraft transmitting devices
120. Penalties for violation of chapter
130. Penalty for violation of § 90 or 110 of this chapter
140. Uniformity of interpretation
150. "Department" and "commissioner" defined
160. Short title

Sec. 02.35.010. Federal law followed. It is declared that the policy, principles, and practices established by the United States Air Commerce Act of 1926, and all amendments to it are adopted and extended and made applicable to cover all air traffic in this state, so far as not covered by federal law. (§ 32-6-2 ACLA 1949)

ALR references. — Registration, certificates of air worthiness and the like; permits; licenses, and license taxes, 83 ALR 336; 99 ALR 179.

Sec. 02.35.020. Aircraft license required. No civil aircraft may be flown in this state unless it has an appropriate existing license or permit under federal law. (§ 32-6-3 ACLA 1949)

Sec. 02.35.030. Airman license required. No person may act as an airman of a civil aircraft when that aircraft is flown or operated in this state unless that person has an appropriate existing license or permit under federal law. (§ 32-6-4 ACLA 1949)

Sec. 02.35.040. Registration of aircraft. No aircraft shall be operated or be flown in this state until a certified copy of federal license or permit, as required in AS 02.35.020, has been filed with the department, and persons operating aircraft in the state shall within 30 days after the first day of January of each year file a certified copy of the federal license or permit with the department. (§ 32-6-5 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.050. Registration of airmen. No person may act as an airman of a civil aircraft when that aircraft is flown or operated in the state until a certified copy of that person's federal license or permit, as required in AS 02.35.030, has been filed with the department, and every airman of any civil aircraft in the state shall within 30 days after the first day of January of each year file a certified copy of his federal license or permit with the department. (§ 32-6-6 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.060. Proper officer to make and certify copies of licenses. The certified copies of licenses and permits required to be filed with the department under the provisions of this chapter may be made and certified by any officer authorized to administer oaths and having an official seal, inside or outside the state. No charge may be made by the department for the filings required. (§ 32-6-7 ACLA 1949; am § 16 ch 123 SLA 1949)

Sec. 02.35.070. Receipts for certified certificates. The department, upon receipt of certified certificates as provided by AS 02.35.020 — 02.35.050, shall immediately issue to the proper party a receipt for the certified certificate, which is prima facie evidence that the party has complied with the registration requirements of this chapter. (§ 32-6-8 ACLA 1949; am § 16 ch 123 SLA 1949)

Probative value of receipt. — The receipt for the certified certificate, which is made prima facie evidence by this section, would be better evidence of the issuance and registration and contents of a pilot's license than the testimony of a witness thereto. This receipt would be of equal probative value with the license itself, and cover the additional point of compliance with the law of Alaska. Smith v. Pacific Alaska Airways, Inc., 9 Alaska 86, 89 F.2d 253 (9th Cir.), cert. denied, 9 Alaska 234, 302 U.S. 700, 58 S. Ct. 20, 82 L. Ed. 541 (1937).

Sec. 02.35.080. Exceptions to application of chapter. The provisions of this chapter do not apply to the first entry of a civil aircraft or airman while engaged exclusively in commercial flying, constituting an act of interstate or foreign commerce, nor does it apply to a public aircraft. (§ 32-6-10 ACLA 1949)

SB
614

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SUMMARY SB 614:

Appropriates the sum of $50,000,000 from the general fund to the rural electrification revolving loan fund in the Alaska Power Authority. Further provides that the appropriation made by this act is for capitalization of a loan fund and does not lapse in accordance with AS 37.25.010.

BILL ANALYSIS

ASSIGNMENT DATE_____

UNASSIGNED_____

DEPARTMENT	SPONSOR (PRINCIPAL)	BILL NO.
Commerce & Economic Development Alaska Power Authority	Kerttula	SB614

DEPARTMENT POSITION

Amount appropriated is in excess of needs for FY83 which are estimated at $6.5 million.

DIVISION DIRECTOR	DATE	COMMISSIONER	DATE

GOVERNOR'S OFFICE USE

☐ POSITION NOTED ☐ POSITION APPROVED ☐ POSITION DISAPPROVED

BY: DATE:

SUMMARY

(1) RELATED BILLS (SIMILAR OR CONFLICTING)

(2) OTHER AGENCIES AFFECTED BY BILL

(2) a. ORGANIZATIONAL SUPPORT FOR BILL	(2) b. ORGANIZATIONAL OPPOSITION TO BILL
Electric utilities and consumers currently without central service	Unknown

(3) PROGRAM EFFECTS OF BILL

Bill would heavily capitalize the RERLF for six to eight years and would fund a program to extend electric service to numerous areas of rural Alaska with a heavy subsidy by the State.

(4) FISCAL IMPACT: ☐ NONE ☒ FISCAL ANALYSIS ATTACHED

(5) AMENDMENTS PROPOSED:

The enabling statute should be amended to clarify terms of loans, principal repayment provisions, and to simplify the administrative requirements of the program.

(6) COMMENTS:

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. SB 616 - An act making a special appropriation to the rural
Title electrification revolving loan fund; and providing for an effective date.
Requested by Kerttula Date

II. FISCAL DETAIL

Agency Affected Alaska Power Authority, Dept of Commerce & Economic Development
Program Category Affected Energy Development
BRU, Program, Or Subprogram(s) Affected Alaska Power Authority
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		25.0	27.2	29.6		
200 TRAVEL		5.0	5.5	6.0		
300 CONTRACTUAL		8.0	8.8	9.7		
400 COMMODITIES		2.0	2.1	2.3		
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		40.0	43.6	47.6		

FUNDING (Thousands of Dollars)

GENERAL FUND		40.0	43.6	47.6		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1		
PART TIME						
TEMPORARY						

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

In addition to the $50 million cost of this bill to capitalize the fund, the Power Authority will experience operating budget costs associated with administration of the loan fund due to the procedures established in Chapter 118, SLA1981 creating the fund. One-half time of a loan officer will be required to administer the program. In addition to personnel costs, there will be costs associated with travel to borrower locations to audit expenditure of funds and inspect funded improvements, travel to Citizen Advisory Committee meetings and legal costs associated with loan document preparation. Estimated expenditures beyond FY83 are inflated at 9%/year.

IV. DATE 2/3/82 PREPARED BY T.J. McGuire
AGENCY Alaska Power Authority
PHONE 76-0001

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

33-001 (Rev. 12/81)

Sec. 37.25.030. Appropriations for projects of the Alaska energy center. An appropriation to the Alaska Energy Center for a research, development, or demonstration project under AS 46.12.120(2) is valid for the duration of the project and the unexpended balance for the project shall be carried forward to subsequent fiscal years. (§ 6 ch 148 SLA 19[illegible]0)

Chapter 35. Alaska Paperwork Reduction and Simplification Act.

Section
10 — 70. [Expired]

Secs. 37.35.010 — 37.35.070. Legislative intent; creation and duties of paperwork reduction coordinator; compliance by agencies; report to legislature; construction; definitions; short title.

Expired pursuant to § 2, ch. 147, SLA 1979.

Editor's notes. — The expire[illegible] chapter derived from § 1, ch. 147, SLA 1977.

Sec. 44.83.361. Rural electrification revolving loan fund. (a) The rural electrification revolving loan fund is established in the Alaska Power Authority. The fund consists of

(1) appropriations made to the fund; and

(2) principal and interest payments on loans made under this section.

(b) The authority may make loans from the rural electrification revolving loan fund to electric utilities certified by the Alaska Public Utilities Commission. A loan from the fund may be made only for the purpose of extending new electric service into an area of the state that an electric utility may serve under a certificate of public convenience and necessity issued by the Alaska Public Utilities Commission. A loan may be made from the fund to an electric utility if the utility invests the money necessary to provide one pole, one span of line, one transformer, and one service drop for each consumer for whom immediate service would be provided by the extension of electric service. However, a loan may not be made from the fund unless

(1) the loan is recommended by a loan advisory committee appointed under AS 44.83.363; and

(2) the extension of electric service would provide immediate service to at least three consumers.

(c) A loan from the rural electrification revolving loan fund shall bear an annual rate of interest of two percent of the unpaid balance of the loan.

(d) When a loan is made by the authority under this section, the electric utility receiving the loan

(1) shall, in addition to the rates that it is authorized to charge, charge the consumers served by the electric service extended with the loan proceeds an amount sufficient to pay the interest costs of the loan;

(2) shall pay to the authority annually an amount equal to

(A) interest of two percent on the unpaid balance of the loan; and

(B) payments on the unpaid balance of the principal of the loan for each new consumer served by the electric service during the preceding year for which the loan was made; payments on the unpaid balance of the principal of the loan shall be made at a rate equal to the difference between the actual cost of making the service connection to the consumers and the minimum investment per consumer required of the utility before a loan is made under (b) of this section.

(e) The authority shall

(1) adopt regulations necessary to carry out the provisions of this section;

(2) administer the rural electrification revolving loan fund; and

(3) submit to the legislature within the first 10 days of each regular legislative session a report of actions taken by the authority under this section and an accounting of the rural electrification revolving loan fund. (§ 1 ch 118 SLA 1981)

SB

630

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

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

MEMORANDUM

February 24, 1982

SUBJECT: Sunset of state agencies, boards and commissions -- CSSSSB 630 (SA)

TO: Senator Arliss Sturgulewski

FROM: Edward H. Hein
Legislative Counsel

You have asked for a section-by-section analysis of CSSSSB 630 (SA).

Sec. 1. The title of AS 44.66.010 and the first sentence of subsections (a), (b) and (c) have been amended to include state agencies, and in subsections (b) and (c) also state boards. The last half of the first sentence of subsection (a) has been reworded for purposes of clarity. In Paragraph (11) the statutory reference to the Council on Domestic Violence and Sexual Assault has been renumbered in accordance with changes made during the interim by the Revisor of Statutes.

In subsection (b) a new sentence has been added to provide that during the year for which a "terminated" agency, board or commission is extended for the purpose of concluding its affairs, its powers and authority are not reduced. The meaning of this sentence is not clear. One interpretation is that it means that the agency, board or commission may exercise its powers and authority only for the purpose of concluding its affairs. Another interpretation is that the agency, board or commission may continue to exercise all its powers and authority and carry on "business as usual".

Subsection (c) provides that the legislature has authority to continue or reestablish a state agency, board or commission for a period not to exceed four years unless it decides to continue or reestablish the agency, board or commission for a period exceed for years.

Sec. 2 provides for an immediate effective date if the section is approved by a two-thirds vote of each house. The act would take effect on 12:01 am on the day after it is signed by the governor or the day after he gives written notice that he is allowing the act to become effective without his approval.

EHH:_jb

STATE OF ALASKA
THE LEGISLATURE
LEGISLATIVE AFFAIRS AGENCY

RECEIVED
JAN 7 1982
BUDGET/AUDIT
COMMITTEE

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

MEMORANDUM January 7, 1981

SUBJECT: Sunset of state agencies, boards and commissions -- SB 630

TO: Senator Arliss Sturgulewski

FROM: Edward H. Hein EH
Legislative Counsel

You have asked for a section-by-section analysis of Work Order No. 12-1978, which has been prefiled as SB 630.

Sec. 1. The language of the title of the section, the first sentence of subsection (a) and the first sentence of subsection (b) has been amended to include state agencies, and in subsection (b) also state boards. The last half of the first sentence of subsection (a) has been reworded for purposes of clarity. Paragraph (1) relating to the Alcoholic Beverage Control Board and Paragraph (2) relating to the Alaska Transportation Commission have been deleted and thereby effectively repealed. In Paragraph (11) the statutory reference to the Council on Domestic Violence and Sexual Assault has been renumbered in accordance with changes made during the interim by the Revisor of Statutes. In the first sentence of subsection (b) the phrase "for the purpose of concluding its affairs" has been deleted and a new sentence has been added in an attempt to make clear that during the year in which a "terminated" agency, board or commission is "winding down", it may carry on business as usual. Subsection (c), which purported to give the legislature authority to continue or reestablish a state board or commission for a period not to exceed four years has been deleted.

Sec. 2 provides in a new subsection (f) even if a committee of reference fails to comply strictly with every requirement in AS 44.66.050(a) - (e), the state agency, board or commission will terminate on schedule. For example, if a report

required by AS 44.66.050(d) were to be submitted to the presiding officer on the 61st day of the legislative session, instead of the 60th day, such a failure to comply with the law would not be grounds for arguing that the agency, board or commission was not effectively terminated on the date established by statute.

Sec. 3 provides for an immediate effective date if the section is approved by a two-thirds vote of each house. The act would take effect on 12:01 am on the day after it is signed by the governor or the day after he gives written notice that he is allowing the act to become effective without his approval.

EHH:ljb

Sec. 44.66.010. Termination of state boards and commissions. (a) Boards and commissions listed in this subsection expire on the date set out after each:

(1) Alcoholic Beverage Control Board (AS 04.06.010) — June 30, 1983;

(2) Alaska Transportation Commission (AS 42.07.011) — June 30, 1983;

(3) State Board of Parole (AS 33.15.010) — June 30, 1982;

(4) Alaska Public Utilities Commission (AS 42.05.010) — June 30, 1985;

(5) Repealed by § 20 ch 110 SLA 1981.

(6) Alaska Council on Science and Technology (AS 44.21.241) — June 30, 1983;

(7) Alaska Renewable Resources Corporation (AS 37.12.010) — June 30, 1982;

(8) Alaska Code Revision Commission (AS 24.20.075) — June 30, 1982;

(9) Rural Development Council (AS 44.47.160 — 44.47.190) — June 30, 1987;

(10) Older Alaskans Commission (AS 44.21.200) — June 30, 1985;

(11) Council on Domestic Violence and Sexual Assault — June 30, 1985.

(b) Upon termination, a commission listed in (a) of this section shall continue in existence until June 30 of the next succeeding year for the purpose of concluding its affairs.

(c) A commission scheduled for termination under AS 44.66.010 — 44.66.060 may be continued or reestablished by the legislature for a period not to exceed four years. (§ 3 ch 149 SLA 1977; am § 3 ch 101 SLA 1978; am § 10 ch 179 SLA 1978; am § 3 ch 44 SLA 1980; am § 1 ch 115 SLA 1980; am § 11 ch 131 SLA 1980; am § 11 ch 136 SLA 1980; am § 3 ch 172 SLA 1980; am § 1 ch 32 SLA 1981; am § 1 ch 64 SLA 1981; am § 4 ch 79 SLA 1981; am § 3 ch 101 SLA 1981; § 20 ch 110 SLA 1981; am Executive Order No. 48, § 5 (1981))

Revisor's notes. — In subsection (a)(6), the reference "AS 44.21.241" was substituted for "AS 44.21.200" to reflect the renumbering of that section by the revisor of statutes under AS 01.05.031.

Effect of amendments. -- The first 1981 amendment, effective June 20, 1981, substituted "1982" for "1980" in paragraph (3) of subsection (a).

The second 1981 amendment, effective July 11, 1981, substituted "1983" for "1981" in subsection (a)(1).

The third 1981 amendment, effective July 15, 1981, added paragraph (10) of subsection (a).

The fourth 1981 amendment added paragraph (11) of subsection (a).

The fifth 1981 amendment, effective July 27, 1981, repealed paragraph (5) of subsection (a) which provided a termination date for the Alaska Pipeline Commission.

The sixth 1981 amendment effective July 1, 1981, substituted "AS 44.21.241" for "AS 44.19.181" in paragraph (6) of subsection (a).

The fourth 1980 amendment added paragraph (8) of subsection (a).

The fifth 1980 amendment added paragraph (9) of subsection (a).

Sec. 44.66.020. Agency programs. (a) Agency programs and activities listed in this subsection which are specifically designated as provided in AS 44.66.030 are subject to termination during the regular legislative session convening in the month and year set out after each:

(1) programs in the budget categories of general government, public protection, and administration of justice — January, 1980;

(2) programs in the budget categories of education and the University of Alaska — January, 1981;

(3) programs in the budget categories of health and social services — January, 1982;

(4) programs in the budget categories of natural resources management, development and transportation — January, 1983.

(b) An agency program or activity designated in (a) of this section shall be subject to termination during the regular legislative session convening four years after the preceding review and may be subject to termination at any time upon the recommendation of the Legislative Budget and Audit Committee and the concurrence of the legislature as if under AS 44.66.030. (§ 3 ch 149 SLA 1977)

Sec. 44.66.030. Program identification. During the legislative session preceding each of the years set out in AS 44.66.020, the Legislative Budget and Audit Committee shall designate, not later than March 1 of those years, the programs and activities within each program category which shall be subject to termination in the next fiscal year. The recommendations of the Legislative Budget and Audit Committee shall be submitted to the respective houses of the legislature in the form of a bill which, if enacted into law, would terminate those designated programs and activities on or before July 1 of the following year. (§ 3 ch 149 SLA 1977)

Sec. 44.66.050. Legislative oversight. (a) Before the termination, dissolution, continuation or reestablishment of a board or commission under AS 08.03.010 or AS 44.66.010, or of an agency program under AS 44.66.020 and 44.66.030, a committee of reference of each house, which shall be the standing committee of legislative jurisdiction as provided in the Uniform Rules of the Legislature, shall hold one or more hearings to receive testimony from the public, the commissioner of the department having administrative responsibility for each named board, commission, or agency program, and the members of the board or commission involved. The hearings may be joint hearings. The committee shall also consider the proposed budget of the board, commission, or agency program, prepared in accordance with AS 37.07.050(f), and the performance audit of the activities of the board, commission, or agency program, prepared by the legislative audit division as prescribed in AS 24.20.271(1). The committee may consider

any other report of the activities of the board, commission or program, including but not limited to annual reports, summaries prepared by the Legislative Affairs Agency, and any evaluation or general report of the manner of conduct of activities of the board, commission, or agency program prepared by the office of the ombudsman.

(b) During a public hearing, the board, commission or agency shall have the burden of demonstrating a public need for its continued existence or the continuation of the program, and the extent to which any change in the manner of exercise of its functions or activities may increase efficiency of administration or operation consistent with the public interest.

(c) A determination as to whether a board or commission or agency program has demonstrated a public need for its continued existence shall take into consideration the following factors:

(1) the extent to which the board, commission or program has operated in the public interest;

(2) the extent to which the operation of the board, commission, or agency program has been impeded or enhanced by existing statutes, procedures, and practices which it has adopted, and any other matter, including budgetary, resource, and personnel matters;

(3) the extent to which the board, commission or agency has recommended statutory changes which are generally of benefit to the public interest;

(4) the extent to which the board, commission or agency has encouraged interested persons to report to it concerning the effect of its regulations and decisions on the effectiveness of service, economy of service, and availability of service which it has provided;

(5) the extent to which the board, commission or agency has encouraged public participation in the making of its regulations and decisions;

(6) the efficiency with which public inquiries or complaints regarding the activities of the board, commission or agency filed with it, with the department to which a board or commission is administratively assigned, or with the office of the ombudsman have been processed and resolved;

(7) the extent to which a board or commission which regulates entry into an occupation or profession has presented qualified applicants to serve the public;

(8) the extent to which state personnel practices, including affirmative action requirements, have been complied with by the board, commission or agency to its own activities and the area of activity or interest; and

(9) the extent to which statutory, regulatory, budgeting or other changes are necessary to enable the agency, board or commission to better serve the interests of the public and to comply with the factors enumerated in this subsection.

(d) As to each board, commission, or agency program assigned to it for purposes of review, the committee of reference shall, not later than the 60th day of the legislative session, submit a report to the presiding officer of the house. The report shall contain a summary of the findings of the committee as to the compliance of the board, commission or program with the factors enumerated in (c) of this section, together with a summary or recommendations of the committee as to each of the following:

(1) an identification of the problems or the needs that the programs and activities of the board, commission or agency are intended to address;

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

(4) an assessment of alternative methods of achieving the purposes of the program;

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level;

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts; and

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

(e) The committee of reference may introduce a bill providing for the reorganization or continuation of the board, commission or agency program. No more than one board, commission, or agency program shall be continued or reestablished in any legislative bill, and the board, commission, or agency program shall be mentioned in the title of the bill. (§ 3 ch 149 SLA 1977)

Sec. 44.66.060. Existing claims. This chapter shall not cause the termination or dismissal of a claim or right of a citizen against a board, commission or program of an agency terminated under this chapter which is subject to litigation. Claims and rights shall be assumed by the department to which the board or commission terminated under this chapter was attached for administrative purposes. (§ 3 ch 149 SLA 1977)

Chapter 66. Council on Domestic Violence and Sexual Assault.

Section
10. Council on domestic violence and sexual assault; purpose
20. Membership, terms, vacancies, and disqualification
30. Compensation and expenses
40. Meetings and quorum
50. Duties of the council
60. Qualifications
900. Definitions

Sec. 18.66.010. Council on domestic violence and sexual assault; purpose. There is established in the Department of Public Safety the Council of Domestic Violence and Sexual Assault. The purpose of the council is to provide for planning and coordination of services to victims of domestic violence or sexual assault or to their families and to perpetrators of domestic violence and sexual assault and to provide for crisis intervention and prevention programs. (§ 1 ch 101 SLA 1981)

Sec. 18.66.020. Membership, terms, vacancies, and disqualification. (a) The council consists of

(1) three persons appointed by the governor after consultation with the Network on Domestic Violence and Sexual Assault, a nonprofit corporation; the Network on Domestic Violence and Sexual Assault shall submit a list to the governor of persons recommended for appointment;

(2) the commissioner of public safety or the designee of the commissioner of public safety; and

(3) the commissioner of health and social services or the designee of the commissioner of health and social services;

(4) the commissioner of education or the designee of the commissioner of education;

(5) the attorney general or the designee of the attorney general.

(b) The term of office of a member appointed under (a)(1) of this section is two years. A member appointed under (a)(1) of this section serves at the pleasure of the governor and may not serve more than two consecutive terms. A vacancy on the council shall be filled for the unexpired term by appointment by the governor after consultation with the Network on Domestic Violence.

(c) A person who receives compensation from or is an employee of a domestic violence, sexual assault, or crisis intervention or prevention program may not be appointed to the council. (§ 1 ch 101 SLA 1981)

Editor's notes. — Section 4, ch. 101, SLA 1981, provides: "Of the first members appointed to the Council on Domestic Violence and Sexual Assault under AS 18.66.020(a) added in sec. 1 of this act (1) one member shall be appointed to serve a term of one year; (2) two members shall be appointed to serve a term of two years."

SB
641

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

January 21, 1982

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Room 119 - Capitol Building
Juneau, Alaska

Dear Senator Mulcahy:

Re: Senate Bill No. 641

Senate Bill No. 641, an Act providing a corporate tax exemption, was introduced in the Senate on January 11, 1982, and was referred to the Senate Labor and Commerce and Finance Committees.

For the consideration of the Senate Labor and Commerce Committee, I am enclosing copies of Fiscal Notes prepared by Mr. Robert R. Kessel, Director, Audit Division, and Mr. John Larson, Economist, Research Section, Department of Revenue, concerning the proposed legislation.

Sincerely,

R. D. Stevenson

R. D. Stevenson
Special Assistant

cc: The Honorable Don Bennett
The Honorable M. E. Dankworth
Co-Chairmen
Senate Finance Committee

Joseph K. Donohue
Deputy Commissioner, Taxation
Department of Revenue

John Larson, Economist
Research Section
Department of Revenue

Robert R. Kessel, Director
Audit Division
Department of Revenue

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 641
Title An Act providing a corporate tax exemption
Requested by Senate Labor and Commerce Date 1-19-82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Audit Division
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars) None - See analysis below

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-					

FUNDING (Thousands of Dollars) None - See analysis below

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

POSITIONS None - See analysis below

FULL TIME						
PART TIME						
TEMPORARY						

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

We are assuming that the Act would be effective for taxable years beginning on or after January 1, 1983. Therefore, there would be no material reduction in expenditures until FY85.

Robert R Kessel

IV. DATE January 19, 1982 PREPARED BY Robert R. Kessel
AGENCY Audit Division
PHONE (907) 465-2320

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

33-001 (Rev. 12/81)

MEMORANDUM

State of Alaska
Department of Revenue

TO: R.D. Stevenson
Special Assistant

DATE: January 19, 1982

FILE NO:

TELEPHONE NO:

FROM: R.R. Kessel
Director, Audit Division

SUBJECT: SB 641 - Corporate Tax Exemption

SB 641 would provide for an exemption for corporations subject to the income tax imposed by AS 43.20 of $150,000. A bill very similiar to SB 641 (SB 20) was introduced during the last session and apparently went nowhere.

Past studies indicate that upwards to 90% of corporate tax returns filed would be exempt from tax. The remaining few taxpayers would be very large domestic corporations and those multistate corporations having a substantial amount of Alaska income.

Gary Jenkins' comments of a year ago are still appropriate: "Any legislation of this nature could cause serious problems for the State in it's defense of AS 43.21 because of the fact that nearly 100% of domestic corporations will be exempt from tax, thus the only taxpayer would be the multistate corporations doing business in Alaska".

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill 641
Title An Act providing a corporate tax exemption.
Requested by Senate Labor & Commerce Date 01/19/82

II. FISCAL DETAIL
Agency Affected
Program Category Affected
BRU, Program, Or Subprogram(s) Affected
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL						

FUNDING (~~Thousands~~ Millions of Dollars)

GENERAL FUND		(3.7)	(15.5)	(16.7)		
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

SEE ATTACHMENT.

IV. DATE 01/19/82 PREPARED BY John Larson, Economist
AGENCY Dept. of Revenue, Research Section
PHONE 465-2173

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

08-001 (Rev. 12/81)

Attachment to Fiscal Note on Senate Bill 641

Senate Bill 641 would reduce the tax liability of both petroleum and non petroleum corporate taxpayers under AS 43.20 beginning in tax year 1983.

The exempting of the first $150,000 of taxable income approximates a 39% tax reduction in non petroleum corporate tax liability which translates into revenue losses of $3.4 million, $15.2 million, and $16.4 million for the years FY 83, FY 84, and FY 85.

The revenue loss from petroleum corporations would approximate $300,000 a year.

The total revenue loss then to the general fund approximates $3.7 million, $15.5 million and $16.7 million in Fy 83, FY 84, and FY 85.

This analysis is based on limited data which is not necessarily a representative sample of the data which we do not have.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 641:

Provides for a corporate tax exemption of $150,000 against its net income taxable under Chapter AS 43.20.

SB

647

I. REQUEST

Bill/Resolution No. Proposed legislation -- An Act... relating to examination fees and
Title assessments; and providing for an effective date.
Requested by Governor Date Dec. 4, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Banking & Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES			0			
200 TRAVEL			0			
300 CONTRACTUAL			0			
400 COMMODITIES			0			
500 EQUIPMENT			0			
600 LAND & STRUCTURES			0			
700 GRANTS, CLAIMS, ETC.			0			
TOTAL			0			

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME			0			
PART TIME			0			
TEMPORARY			0			

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

An increase in program receipts.

Willis F. Lipscomb

DATE 12-4-81 PREPARED BY Willis F. Lipscomb, Director
Department of Commerce & Economic Development
PHONE

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 23, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Banking Fees

During your conversation with Mr. Kirkpatrick this date, you indicated a wish for clarification of the responsibility of the Division of Banking and Securities and the numbers of financial institutions involved. First, let me state that we conduct joint examinations of the State banks, trust departments and savings and loan associations with the applicable federal agencies, i.e., FDIC of banks and trust departments and FSLIC of the savings and loan associations. In both instances, we make all efforts to avoid redundancy in our examinations.

The Federal Deposit Insurance Corporation (FDIC) and the Federal Savings and Loan Insurance Corporation (FSLIC) are insuring agencies and, as such, are not concerned with State law. Our responsibilities are, on the other hand, geared to structure of the financial institution and the safety and soundness of the operation. In other words, our joint efforts are complimentary of each other and not a duplication. We would be pleased to provide a copy of those items we examine to determine compliance of State law and those contents which are in the FDIC examination.

We are currently jointly examining nine (9) banks, two (2) trust departments, and one (1) savings and loan association. Our sole examination responsibilities include four (4) small loan companies, eighteen (18) premium finance companies and four (4) bank holding companies. In addition, we have one (1) bank and one (1) savings and loans association in the chartering process and one (1) savings and loan association and two (2) credit unions in the process of converting to State charters.

03-H2LH

There are other activities that the examiners are assigned that do not fall in the definition of examining banks. Just this past year, as an example, they have worked on the following:

Researched and developed allowable activities of representative offices and loan production offices of banks that do not constitute banking or branch banking.

Process and investigate three branch bank applications.

Process and investigate an application of a bank to purchase and assume a branch bank of another bank.

Review competitive federal chartered institutions allowable activities and promulgate regulations so state-chartered institutions can compete (Wildcard Statute).

Investigate and take action to revoke a Certificate of Incorporation of a savings and loan in organization revocation. Hearing preserved organization.

Investigate procedure to allow a bank holding company to transfer trust authority from the bank to the holding company.

Process and investigate consumer complaints from the public and the consumer protection agencies file against financial institutions.

It appears to us that the question boils down to whether the public should pay the cost or should the user financial institutions pay the cost. As was stated in your meeting, the program receipts resulting from the fees paid account for only approximately 10 percent of the division's budget.

I hope this has covered the points addressed in the meeting. Should you have further questions or if we may be of any assistance, please feel free to call on Mr. Kirkpatrick at any time.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/shA/5

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

January 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement on SB 647 - an act relating to exam fees.

Our position on this bill is based on the following information:

> Salary increases during the three-year period were 32.8% (not including merit increases). Per diem costs have increased a corresponding amount, while travel costs (air fare) have increased a disproportionate 84.1%. (Travel and per diem calculated on Juneau to Anchorage and return.) A corresponding increase was also noted in other line items; however, these increases were not included. An increase from $7,500 to $10,000 in maximum fees will yield a 33% increase in fees but would not cover our averaged increase in costs of 49.9%. An increase from $7,500 to $12,000 or a 60% increase will provide a 10% cushion for future increases.

The Division of Banking, Securities and Corporations has made an effort to reduce the cost of examination. Four examiners are now stationed in Anchorage close to most of the banks. Also, to avoid duplication of expense, joint examinations are conducted with Federal Deposit Insurance Corporation, Federal Savings & Loan Insurance Corporation and the Federal Reserve Board in the case of bank holding companies.

The examination and investigation fees assessed are program receipts. Should this increase not be approved, it will be necessary to request additional general funds and/or reduce services to both the public and private sectors. Current revenue does not meet program receipts appropriation.

Sincerely,

Edward W. Elvoch

Charles R. Webber
Commissioner

CRW/kkk5/1

ARGUMENTS IN FAVOR OF INCREASED EXAMINATION FEES/12-1-81

1) The division presently examines 10 state-chartered institutions, nine banks and one S&L. Of the nine that have been examined so far this year, eight examinations have exceeded the $7,500 limit. So, if the legislative intent is that the users cover the cost of examination, rather than their constituents, then the ceiling must be raised.

2) The division always conducts joint examinations with FDIC; there is no duplication. The division rates the banks according to the "CAMEL" system, and as required by AS 06. FDIC does not examine as required by AS 06. There are, however, identical forms, reports, and staffing.

3) FDIC does not actually levy a fee on the banks it examines; rather, this cost is allocated indirectly to insurance premiums. Because the FDIC insurance fund generates a good deal of income, even this indirect cost is less than it truly is. ¼ of 1% annually

4) Inflation has resulted in higher costs to the department, thus the dollar amount should be increased.

5) Failure to increase the allowable fees will result in only one of two things - either less and fewer examinations or, supplementals.

MEMORANDUM State of Alaska

TO: Jim Kelly, Administrative Assistant to
Senator Pat Rodey
Senate Commerce Committee

DATE: November 18, 1981

FILE NO:

TELEPHONE NO: 465-2521

FROM: Willis F. Kirkpatrick, Director
Division of Banking and Securities
Department of Commerce and Economic
Development

SUBJECT: Increase in Banking
Fees

I have reviewed your comments of November 5, 1981 with a great deal of interest. There appear to be a number of misconceptions presented to you by the bankers. First, we do not consider the examinations to be duplicative. On the contrary, examinations are conducted jointly with FDIC with all examination tasks being assigned to either FDIC or State examiners to avoid exactly what you describe. We do, however, conduct such additional examination procedures as are mandated by the State statutes, i.e., replacement of impaired capital, assessment of stockholders, denying dividends, and taking possession, etc. This cooperation between the State and FDIC reduces the staffing and expense to each agency and avoids duplication. In addition, the FDIC does not directly charge for examinations as this inallocated cost is a product of the insurance fees.

As you may or may not be aware, the FDIC insurance fund derives a good deal of income from investments. This income, I am told, more than offsets their cost of operation. In reality the State chartered banks are paying for only one examination. The State's national banks, on the other hand, not only pay the FDIC insurance fees but an assessment to the Comptroller of the Currency to support their cost of operation. The other insurance agencies, i.e., Federal Savings and Loan Insurance Corporation and the National Credit Union Administration, are operated in a similar way.

Second, as previously stated the examinations are conducted jointly by the State and the applicable federal regulators. We use the same examination forms, issue one consolidated report and utilize combined examiner staffing to generate the Report of Examination. The examination schedules are coordinated with our federal counterparts to eliminate the need for two examinations.

Third, the point that the FDIC examinations "are the ones which really count" is not well taken nor accurate. The State is the primary regulator by statute. It has the responsibility for the chartering and dissolution of its banks and the authority to take possession of a failing bank and to rehabilitate or liquidate it. If it is the argument that only FDIC examination portion of our joint is relevant then it can only be concluded that the Alaska Banking Code provisions noted on the attached compliance examination check list are not relevant and, therefore, should be repealed, in which event all State chartered banks should become national banks.

Fourth, the $120,800 figure is a product of the budget process and is our best estimate as to anticipated revenue. Unfortunately, if this amount is not realized it is necessary to ask for supplemental funding or to reduce spending in an already tight budget. Either method present a viable alternative. In the past it has always been the legislators intent that the users (banks) cover the cost of the examination rather than their constituants(public).

In conclusion, for your further information, there are now ten (10) state-chartered financial institutions and 23 other licensees. The State's nine (9) banks are rated by the State and FDIC in five (5) specific categories on a scale of one to five (one the highest; five the lowest). These categories are (1) capital (capital adequacy), (2) earnings, (3) management, (4) assets (quality) and (5) liquidity. This is commonly referred to as the "CAMEL" rating. Banks with ratings of one or two are not considered to be "problem banks." Banks, however, of three to five are considered to have varied problems which require additional supervision. Of the State's nine (9) banks only two have a rating of one or two. The remainder have ratings of three to five which as previously stated, require additional regulatory supervision. These ratings are not public knowledge nor are they disclosed to management. The frequency of examinations and other regulatory responses should reveal to the individual banks their status. It's quite possible that some or all of the banks offering input to you have problems which require additional supervision. I would, of course, wish that this information remain confidential for your use only.

I disclose this for only one reason. We evidently have some State banks that are classified as problem banks and, therefore, under close supervision. It is obvious to me that if we were removed as the primary regulator it would be very much to their liking.

WFK/kb 4/7

SEN. PATRICK RODEY
CHAIRMAN
(907) 465-3717

SEN. BOB MULCAHY
SEN. JALMAR KERTTULA
MEMBERS

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

M E M O R A N D U M

DATE: November 5, 1981

TO: Willis F. Kirkpatrick, Director
Division of Banking and Securities

FROM: Jim Kelly, Administrative Assistant JK

RE: Increase in Banking Fees

Thank you for your memorandum of October 9th in which you provided the information I requested. I do have, however, one question about the reference you made in that memo to a "mandate" to supplement GF revenues with program receipts totaling $120,800. Is that your estimate which you prepared for the FY 82 budget, or where does it come from? Also, what happens if your receipts come in less than expected?

For your information, when Senator Rodey and I discussed your proposed legislation with the Anchorage bankers, we met nearly unanimous opposition. Only Alaska Pacific Bank seemed to understand your position. The chief complaint appears to be that state-chartered institutions are being forced to pay twice for examinations, once to the Division and once to the federal insurers. And the bankers, of course, feel that the examinations provided by the FDIC are the ones which really count.

The question which Senator Rodey has asked me to communicate to you is: Are the examinations duplicative? He wonders if there is a way that your Division and the FDIC could cooperate a bit more to accomplish your goals and yet reduce the costs and inconvenience to the banks?

Would it be possible to provide this office with an explanation of how your Division does, in fact, cooperate with the FDIC, either in terms of generation of information or timeliness of examination schedules? And, how do the two examinations differ?

MEMORANDUM State of Alaska

TO: Jim Kelley, Administrative Assistant
Office of Senator Patrick Rodey

DATE: October 9, 1981

FILE NO:

TELEPHONE NO: 465-2521

FROM: Willis F. Kirkpatrick, Director
Division of Banking & Securities
Department of Commerce & Economic Development

SUBJECT: Increase in Banking Fees

The number of bank examinations which exceed the $7,500 cap had been relatively few in number until the current year. We have been forced a reduce the state examiner participation in an attempt to remain within our limits. We have, however, experienced cost overruns due to additional time required for most recent examinations, plus salary, per diem and travel expense. It was calculated, when this limit was established in 1978, that we could field from Juneau to Anchorage or Fairbanks, three (3) examiners for two weeks or two (2) examiners for three weeks for the $7,500 cap. Approximately 1/3 of the cost was travel and per diem. Since that time, however, both travel and per diem have increased markedly. It would now equal approximately 45% of the total. We have, however, in the interim, opened a field office in Anchorage which has served to substantially reduce travel and per diem costs but increased personnel costs caused by inflation have offset the savings.

In addition, we are mandated to supplement General Fund revenues with program receipts totaling $120,200. With examination schedules being staggered and the interval between examinations being extended to 18 months to two years, this amount is almost impossible to attain. For informational purposes, our present examination schedule includes seven (7) commercial banks, two (2) mutual savings banks, one (1) savings and loan association, two (2) trust departments, four (4) small loan companies and twenty-three (23) premium finance companies. In addition, we are processing an application for the charter of a commercial bank, a conversion of a savings and loan association and the charter of a savings and loan association. Various credit union groups have also contacted us regarding conversion to State charter and for new charters. The generation of investigation fees, however, will probably not be realized until well into FY '83 and will have only minimal effect on revenues.

The division has examined nine (9) of the ten (10) presently chartered financial institutions. Of the nine (9), eight (8) examinations have exceeded the $7,500 limit. The present $7,500 cap has left us a revenue shortfall for these examinations of $18,900 plus. The attached chart indicates the allowable charge and the actual cost to the department of the last full scope examination performed.

WFK/saC/25

Attachment

FEES FOR MOST RECENT EXAMINATIONS
OF ALASKA'S DEPOSITORY FINANCIAL INSTITUTIONS

	Actual Costs Incurred	Allowable Charges
ALASKA BANK OF COMMERCE	$ 7,806.38	$ 7,500.00
ALASKA MUTUAL	7,567.70	7,500.00
ALASKA PACIFIC BANK	12,409.73	7,500.00
ALASKA STATEBANK	12,460.75	7,500.00
FIRST BANK	8,283.87	7,500.00
MT. McKINLEY MUTUAL BANK	9,833.86	7,500.00
PENINSULA SAVINGS & LOAN	2,682.29	2,682.29
PEOPLES BANK & TRUST	8,283.16	7,500.00
UNITED BANK ALASKA	12,271.85	7,500.00
TOTAL	$81,599.59	$62,682.29

Total Costs	$81,599.59
Total Collections	62,682.29
Net Losses	$18,917.30

ALASKA MUTUAL BANK

P.O. Box 1120 - 5th & F Street - Anchorage, Alaska 99510

December 16, 1980

Mr. Jim Kelly
Administrative Assistant
Alaska State Legislature
Senate Banking Committee
Pouch V
Juneau, Alaska 99811

Dear Jim:

In accordance with our telephone conversation of last week I am forwarding your copy of the Anchorage Real Estate Research Report.

In addition, I am also providing the information omitted from my letter of November 28, 1980. The information requested is as follows:

Calendar Year	Franchise Tax Paid	Examination Fee Paid
1975	$ 65,673.00	$1,750.00
1976	$ 91,565.00	-0-
1977	$112,249.00	$2,000.00
1978	$ 91,194.00	-0-
1979	$ 58,337.00	$4,313.55

If you need further information, please advise.

Sincerely,

Bob

Robert W. Sullivan
Vice President

RWS/jw
Enclosure

ALASKA MUTUAL BANK

P.O. Box 1120 - 5th & F Street - Anchorage, Alaska 99510

December 19, 1980

Mr. Jim Kelly
Administrative Assistant
Alaska State Legislature
Senate Banking Committee
Pouch V
Juneau, Alaska 99811

Dear Jim:

Reference is made to your letter of November 18, 1980, in which you solicit comments pertaining to possible changes in the Alaska banking code. Alaska Mutual Bank is pleased to have the opportunity to comment on some of the proposals outlined and will, in addition, offer some additional suggestions.

(1) AS 06.01.010 - We do not believe an increase in examination fees in excess of $7500 per examination is justified. Our experience has shown that, on the average, we have 2 state bank examiners present for a period of approximately two weeks. If one assumes 2 manweeks at a rate of approximately $2250 per manweek salary per examiner, then the fee should approximate $4500 per examination. If travel and per diem are to be paid by the banks, it is difficult to believe that the current authorized fee of $7500 per examination is inadequate.

(2) AS 06.01.020 - We generally concur with the proposed language of this change with the exception of the words "or require". We do not believe the commissioner should have the authority to require financial institutions, through regulation, to provide a service that may be disruptive to the banking system notwithstanding a commissioner's interpretation of "serving the public convenience and advantage". It is our belief that a "requirement" should be dealt with, if appropriate, by statute rather than regulation.

(3) AS 06.05.011 - No comment.

(4) AS 06.05.015 - Amending of (6) is unnecessary. This is an intrusion in the affairs of the bank. Each situation determines the need for and frequency of financial statements. Much depends on collateral type and term of loans, and other factors not necessarily relating to an annual financial statement. The added burden to the consumer does not warrant this change.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 647:

The Commissioner, (Dept of Commerce and Econ Dev) shall assess every financial institution a fee for expenses incurred for all regular and special examinations or investigations. The major change in the bill concerns an increase in the maximum examination fee which may be charged, reflecting the increased cost for examinations. The existing maximum of $7,500 was established by statute in 1978, however, since then the cost of an examination has risen 50%, and this bill would address the increase in examination fees by raising the maximum fee level to $12,000. The bill further provides that all assessments shall be paid to the Department within 30 days after the financial institution receives the notice of assessment.

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which increases the fee that the commissioner of commerce and economic development may assess a financial institution for investigation and examination costs. It raises the existing maximum of $7,500 to a maximum of $12,000 per examination. The fee increase is necessary because costs associated with these examinations have risen approximately 50 percent since 1978 when the $7,500 maximum fee was first established. An additional amendment is included, slightly re-writing the garbled last sentence of AS 06.01.010(b).

Sincerely,

Jay S. Hammond
Governor

Alaska Statutes

Title 6. Banks and Financial Institutions.

Chapter

01. Administration (§§ 06.01.010 — 06.01.050)
05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
25. Trust Companies (§§ 06.25.010 — 06.25.350)
30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
40. Premium Financing Act (§§ 06.40.010 — 06.40.190)

Chapter 01. Administration.

Section

10. Examination fees and assessments
20. General powers of department
30. Orders and injunctions; notice and hearings; regulations
40. Examination policy
50. Definitions

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.01.010. Examination fees and assessments. (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of them, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed $7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than $100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

(1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

SB

648

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY SB 648:

SB 648 expands the definition of "employee" under the Workers Compensation Act to include an offender performing community work service as an alternative to sentencing. Currently, if an offender becomes injured while working, his only recourse is to pursue a tort remedy, with uncertain compensation to the injured person, and the possibility of exceedingly large judgements against the negligent party.

The development of State alternative sentencing programs has been hampered by the reluctance of many organizations to accept referrals, fearing the liability to the organization in the event of an offender becoming injured.

CS SB 648 designates the employee as an employee of the state, working at the direction of the state, and assures that the state will assume the insurance liability for worker's compensation coverage.

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION
PRETRIAL SERVICES SECTION

JAY S. HAMMOND, GOVERNOR

465-3678

POUCH KC – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

The Honorable Robert Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

In response to your request for a position on the proposed committee substitute for Sentate Bill 648 whereby the State of Alaska would assume the total cost of worker's compensation for individuals placed in community work service, the Department of Law supports the additional provision of the committee substitute.

In the memorandum of advise on the issue of liability for injuries to offenders performing community work service, dated February 4, 1982, and made available to your committee, analysis of the current provisions of the Worker's Compensation Act indicated that these offenders are excluded from worker's compensation coverage as they are not "employees" within the meaning of the Act. Exclusion of these offenders from coverage under the Act was problematic in that an offender injured in the performance of community work service could only recover damages for the injury by proving both fault and negligence in a common law tort suit action contrary to the underlying purposes of worker's compensation statutes. Additionally, in that this class of individuals is not within the coverage provisions of the Worker's Compensation Act, the exclusive remedy provisions (AS 23.30.055) are not applicable, thus greatly increasing the potential liability for employers in those instances where fault and negligence are proven. The original version of SB 648, requested by the governor at the behest of the Department of Law, attempted resolution by merely redefining "employee" for purposes of the Worker's Compensation Act to include offenders performing community work service. However, as was pointed out at hearings on SB 648 in your committee, merely redefining "employee" to include this class of individual could result in significant problems in implementation. Chief among these problems is the premimum rate that would be charged employers for worker's compensation coverage for offenders

performing community work service. In that offenders processed by the State into community work service perform a variety of functions, each of which may require a differing level of job injury risk (the method by which worker's compensation insurance premiums are determined), the result would be a separate risk premimum determination for each placement rather than a standardized risk premium that had been assumed to be the result. Alternatively, if placements were limited to a few risk classes, the ability of the community work service referral program to creatively place these offenders by matching their existing job skills or interest areas with community referral needs would be severely hampered. Similarly, the risk assessments are comparatively higher for certain job classes which positively impact a greater segment of a community than for other classes which do not; e.g., litter pickup along the highways commands a substantially higher premium than performing janitorial duties in a local agency.

This uncertainty of premium rates likewise results in a continued reticence on the part of agency-employers to accept such referrals, although these agency-employers derive a substantial benefit from the labor provided. Agencies accepting community work service referrals either would need to restrict the type of work to be performed or would have to budget uncertain amounts of funds to pay increased risk premiums should they determine in the course of the budget year that they could substantially benefit from another type of work. This uncertainty would result in the agency-employers realizing a substantially diminished benefit from the program.

The alternative to this legislation is the maintenance of the status quo, whereby the State would continue to assume the excess of any tort liability that would result from community work service placements. As this state of the law promotes lawsuits to enable recovery, and is an uncertain remedy for injured individuals, it belies the purposes of worker's compensation and is unacceptable to the Department of Law.

The proposed committee substitute appears to be the best alternative in terms of achieving statewide acceptance of the program, and thus meaningful implementation. With the proposed committee substitute no determination as to premium rates needs to be accomplished as the State is a self-insurer under the Worker's Compensation Act. As there won't be a variance in premium rates for the type of community work service assigned, the placements can continue to be creative, sensible and worthwhile. Furthermore, with over 2,000 referrals and 50,000 hours of community work service performed to date under the aegis of the State, we have not yet experienced any liability situations, thus making even a speculative cost of this assumption extremely low.

In conclusion, as a matter of strong public policy, the Department supports the proposed committee substitute and views it as a vehicle for uniform implementation of an innovative alternative in the criminal justice system. The speculative costs which attend this version are far outweighed by the benefits provided to both the recipients of the community work service and to the individuals performing it.

If you have further questions regarding this legislation, please feel free to contact me.

Sincerely,

WILSON L. CONDON
ATTORNEY GENERAL

DANIEL W. HICKEY
CHIEF PROSECUTOR

By: Patrick W. Conheady
Patrick W. Conheady
Assistant Attorney General
Chief, Pretrial Services

PWC/ks

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RISK MANAGEMENT

JAY S. HAMMOND, GOVERNOR

POUCH C (MS 0218)
JUNEAU, ALASKA 99811
(907) 465-2180

February 26, 1982

Mr. Michael Thill
Administrative Assistant
Senate Labor and Commerce Committee
MS 3100 - Pouch Y
Juneau, AK 99811

Dear Mr. Thill:

Re: Position Paper
CS Senate Bill 648

The Division of Risk Management does oppose this bill, which has the effect of automatically transferring all liability to the State of Alaska in connection with community work which the court has ordered.

Risk Management has communicated with both The Honorable Judge James Hornaday, and Arthur Snowden, relative to the issues addressed in this proposed bill.

We believe that this bill should not be acted upon. If further information is desired, please do not hesitate to call upon myself, or John Haywood, the Director of Risk Management, at 465-2180.

Sincerely,

Beverly Koski /rmm
Beverly Koski
Loss Control Manager

BK/rmm
lRMA/B

CC:ETLH

(MS 0218)

July 23, 1981

The Honorable James C. Hornaday
District Court
State of Alaska
Third Judicial District
P.O. Box 136
Homer, AK 99603

Dear Judge Hornaday:

In response to your letter of June 30, 1981, the Division of Risk Management did oppose the bills which were introduced and had the effect of automatically transferring all liability to the State of Alaska in connection with community work which the Court had ordered.

We believe there is a better way of handling the situation in which the organization responsible for the work program does not have adequate insurance protection.

Since some of the entities are municipalities which do have insurance, it would be a situation in which the State were assuming liability for a responsible entity which has its own protection. There would be no control by the State as far as ensuring that proper safeguards were being taken, and the State would automatically pay all losses which occurred.

I would suggest that the State provide excess insurance over and above any basic insurance which the entity responsible may or may not possess. In this way, the municipality of Anchorage or other large organizations would assume their own losses whereby a small non-profit organization or entity which does not carry insurance would in effect receive coverage from the first dollar of loss from the State's insurance. I believe that this would be an acceptable solution to the problem and would enable this valuable program to continue.

If you have any further thoughts concerning this please let us know.

Sincerely,

John Haywood
Director

JH/jp
RMS JCH

(MS 0218)

November 20, 1981

Mr. Arthur H. Snowden, II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Dear Mr. Snowden:

Re: Liability of State for Court
Ordered Community Work

The Division of Risk Management, Department of Administration, is responsible for the disposition of claims which arise out of State operations. In the absence of a contractual agreement, the liability of the State would be determined by the facts pertaining to an injury or damage to property of others.

The Division of Risk Management would provide insurance coverage for injury to Court ordered persons providing community work and for bodily injury or property damage liability to third parties caused by these persons while under Court order. This insurance would be primary in the absence of other valid and collectable insurance coverage. If the municipal or nonprofit organization sponsor has insurance for workers' compensation and comprehensive general liability which applies to these persons, then the State insurance will provide coverage on an excess basis only.

Between the State and the sponsoring entity, there will be adequate coverage to protect both the Court ordered participant and the public.

Any questions pertaining to this procedure should be referred to the Division of Risk Management.

Sincerely,

John Haywood
Director

JH/bab
cc: Pat Conneady
Kathy Kolkhorst
Karla Forsythe

FORM 02-001BC
FOR BRIEF COMMUNICATIONS.
MAY BE HANDWRITTEN

MEMORANDUM

State of Alaska

DEPT. Labor
DIV. Commissioner's Office
SEC.

TO: Michael Thill
Administrative Assistant
Senate Labor & Commerce Committee

DATE: March 8, 1982

FROM: Judy Knight
Judy Knight
Special Assistant
Department of Labor

SUBJECT: CS for SB 648 (L&C)

The Department of Labor has no comments on proposed Committee Substitute and believe that the proposed draft provides a solution to the existing problem. Thanks for the opportunity to review.

MEMORANDUM State of Alaska

TO Wilson L. Condon
Attorney General
and
Daniel W. Hickey
Chief Prosecutor

DATE February 4, 1982

FILE NO

TELEPHONE NO

FROM Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention
Program Director

SUBJECT Liability During Performance of Community Work Service

A number of questions have been raised concerning the potential for liability for offenders who are placed in a community work service alternative at both the pretrial (diversion) or post trial (conviction) stages. These questions have primarily arisen as a result of a reluctance on the part of placement agencies to accept community work service referrals if there is an attendant assumption of liability on the part of the agency. Although placements made through the Department of Law's Pretrial Intervention Program (diversion) have not elicited the level of concern about liability that judicially authorized placements have, the liability issue is nonetheless of major concern in continuing an important component of the diversion program.

The liability issue is a double faceted question. First, what type of liability can potentially result, and to whom, for injuries to the offender in the course of performing community work service. Second, where does liability lie for injuries to others, or to property, for tortious conduct on the part of an offender during the performance of community work service. Resolution of these questions should facilitate implementation of the community work service alternative under AS 12.55.055.

During the last several months, I have worked with both the court system and the Division of Risk Management of the Department of Administration on these problems. I have additionally prepared and submitted legislation to ensure that offenders performing community work service are included within the coverage of the Worker's Compensation Act.

I. Factual Basis

An offender can be required to perform community work service in one of four ways: (1) attendant to a diversion agreement between the state and the offender for a felony or

misdemeanor offense; (2) attendant to a diversion agreement between a municipality and the offender for a misdemeanor offense; (3) resulting from a sentence for a felony offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055; and (4) resulting from a sentence for a misdemeanor offense pursuant to AS 12.55.015 (a)(6) and AS 12.55.055. This department's Pretrial Intervention Program administers the former three possibilities while having only peripheral involvement with the latter one.

To be eligible for pretrial diversion, an offender must be a first offender, or if previously convicted, the prior offense must be sufficiently in the past so as to be considered stale, and the prior conviction must be of a nature that when considered conjointly with the instant offense, it does not evince a pattern of habituation to crime. The offense charged must be a property crime or a drug offense, or, in rare situations a crime of domestic violence. All other violent crimes are excluded. In post-conviction situations, eligibility is determined by the sentencing judge, relying upon the presentence report prepared by probation personnel in the Division of Corrections for felony offenders. For misdemeanants, community work service is totally within the sentencing judge's discretion with no presentence reports or recommendations. There are no eligibility guidelines for post conviction community work service referrals.

All individuals referred to the Pretrial Intervention Program for community work service are subject to an intake interview. For state diversion referrals, this interview is in-depth and also serves as a screening device; for the other referrals, the interview is in the nature of matching the offender with appropriate community work. The majority of placements are with private, non-profit corporations, although a number are with state or municipal government agencies.

After placement, the Pretrial Intervention Program requires only that the agency report back that the offender is undertaking the requisite community work service on a satisfactory basis; the Pretrial Program does not supervise or otherwise control offenders in the performance of community work.

II. Liability for Injuries to Individuals Performing Community Work Service Resulting from "Employment" Related Accidents.

The first issue that needs to be resolved is whether offenders placed in community work service are "employees" within the meaning of AS 23.30.265(11). If so, they are then subject to the provisions of the Worker's Compensation Act, AS 23.30. This is an issue that has not been directly resolved by Alaska's courts, although there is sufficient precedent to provide considerable guidance on the question.

The definition of employee for purposes of AS 23.30 is not sufficiently clear in determining an offender's status as an employee. AS 23.30.265 provides:

> (11) "employee" means an employee employed by an employer as defined in paragraph (12);
>
> (12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of this chapter and carried on in this state.

Previous opinions of this office delineated the test for an employee. 1963 Op. of the Attorney General, No. 8. Citing both Larson, Workmen's Compensation, (1C, p. 8-1, §43 and p. 8-231, §47) and Ferrell v. Industrial Commission of Arizona, 79 Ariz. 278, 288 P.2d 492, the opinion stated the rule that a contract of hire, expressed or implied, is essential to create the status of an employee generally, and the word "hire" connotes payment of some kind. This test was likewise utilized by the Alaska Supreme Court:

> The relationship of employer-employee can only be created by a contract which may be expressed or implied.

Selid Construction Co. v. Guarantee Ins. Co., 355 P.2d 389, 393 (Alaska 1960).

The existence of an employee-employer relationship is critical for unless that relationship exists between the offender and the placement agency, or the state, or both, then the exclusiveness of liability remedy provided in AS 23.30.055 is not applicable. The Supreme Court of Alaska has emphasized:

> . . .the [Worker's Compensation] act's coverage extend[s] only to persons occupying the status of an employee under either an express or implied contract of hire

City of Seward v. Wisdom, 413 P.2d 931, 939 (Alaska 1966). Further support for the "contract of hire" requirement is implicit in AS 23.30.020.

The elements of the "contract of hire" concept were discussed in a subsequent opinion of this office on the issue of worker's compensation for state prisoners working voluntarily on governmental projects. 1965 Op. of the Attorney General, No. 8. After citing numerous authorities denying coverage to prisoners including a similar case before the Alaska Workmen's Compensation Board, the opinion found the lack of an employee-employer relationship when (1) there was an absence of any pecuniary remuneration for the services performed, and (2) the nature of the services performed were involuntary. In sum, for the establishment of an employee-employer relationship, a "contract of hire" encompassing (1) voluntary acts in return for (2) some type of remuneration needs to be present. See, Larson, §47 et seq.

In the instant case, remuneration can be found for both classes of offender performing community work service. For those individuals participating in the Pretrial Intervention Program where community work service is a portion of the offender's treatment plan, it can be said that the recompense realized in part for performance of community work service is the ultimate dismissal of criminal charges pending against the offender, a valuable, albeit unquantifiable, benefit. Similarly, those offenders sentenced to community work service under AS 12.55.015(a)(6) and AS 12.55.055 can be said to be receiving remuneration in the form of substituted or reduced periods of confinement. However, the absence of voluntariness in either instance precludes a conclusion that a contract of hire is present.

It is quite clear that offenders sentenced to community work service are not free to bargain and contract for their services. The apparent voluntariness present in the offender's choice to refuse to perform community work service when sentenced under AS 12.55.015(a)(6) and AS 12.55.055 is belied by the residual right of compulsion present with the sentencing authority. A refusal on the part of the

sentenced offender to perform community work service would most likely lead to the offender's incarceration, a significantly more onerous result.

Likewise, offenders in the Pretrial Intervention Program who "voluntarily" agree to perform community work service as part of an individualized treatment plan developed for them are free to negotiate the place and manner of performance of that obligation, but there is no voluntariness present with respect to what that performance will encompass and how long it will last. While participation in the Pretrial Intervention Program is clearly in the offender's best interest and entry is on a voluntary basis, the alternative to diversion, prosecution, belies a freedom for offenders to bargain and contract for their services.

Consequently, the lack of any express provision in the Alaska Worker's Compensation Act, AS 23.30, according offenders performing community work service the status of employees in conjunction with the absence of a true contract of hire between the offender and the state or a referral agency, precludes recovery for offenders performing community work service under worker's compensation. Absent coverage under the Worker's Compensation Act, an offender who is injured performing community work service must bring a common law action in tort to recover for injuries sustained.

III. Tort Liability

A determination of potential liability for tortious conduct occuring either by or to an offender is a much more difficult question. This is due to the large number of variations as to questions of fact that may occur in any given situation. As a matter of law, fact situations can be hypothesized which give rise to liability on the part of the state, political subdivisions of the state, placement agencies and the offender. Similarly, those situations can be altered to exclude tort liability as a matter of law for any of the potentially liable parties. Consequently, the tort liability issue should be resolved in a manner consistent with the legislative intent embodied in AS 12.55.055, that is, to institute a workable community work service program in the state. To this end, two approaches have been formally proposed.

A. HB 255 and SB 285. Under this proposed legislative solution, the state would automatically assume all liability

for tortious conduct to others, or to property, by an offender sentenced to community work service. This approach, however, would only include offenders sentenced by a court under AS 12.55.055, therefore excluding a large portion of offenders performing community work service under diversion agreements. It would additionally place the total financial burden upon the state, ignoring current levels of liability coverage maintained by political subdivisions of the state and non-profit corporations which serve as placement agencies and receive the benefits of the community work service. Moreover, it would hold the state strictly liable, irrespective of the conduct of the various parties involved.

B. Assumption of Excess Liability. The second, and preferable, alternative is that embodied in John Haywood's memoranda of November 20, 1981 and January 6, 1982, copies of which are attached. The Division of Risk Management has determined that it is appropriate for the state to assume all liability for tortious conduct in excess of the liability coverage currently provided by placement agencies. For private non-profit organizations and political subdivision of the state serving as placement agencies currently providing liability coverage, there will be no change. Assumption of placement will not cause an increase in coverage, as the state assumes the excess. Similarly, for those private, non-profits not currently providing liability coverage, the state will assume any liability resulting from placements. This alternative eliminates the possibility of increased costs to placement agencies for accepting referrals while allowing those agencies to directly benefit from the community work service performed. It has the added advantage, however, of retaining the responsibility of those agencies for their interaction with and supervision of offenders performing community work service. Lastly, it eliminates any necessity for the state to underwrite the complete cost of the community work service program.

IV. Conclusion

The questions posed by the implementation of the community work service program are not insoluble. For tort liability, a change in policy as evidenced by Mr. Haywood's memoranda is sufficient, and is an equitable manner in which to ensure the proper functioning of the community work service program. For injuries sustained by offenders themselves,

a legislative resolution is necessary. This legislation has been submitted and we are working with the appropriate committees on it.

PWC/gb
Attachments
cc: John Haywood
Director
Division of Risk Management
Department of Administration

NOV 2 4 1981

DEPT. OF LAW
CRIMINAL DIVISION

(AS 0218)

November 20, 1981

Mr. Arthur H. Snowden, II
Administrative Director
Alaska Court System
303 "K" Street
Anchorage, AK 99501

Dear Mr. Snowden:

Re: Liability of State for Court
Ordered Community Work

The Division of Risk Management, Department of Administration, is responsible for the disposition of claims which arise out of State operations. In the absence of a contractual agreement, the liability of the State would be determined by the facts pertaining to an injury or damage to property of others.

The Division of Risk Management would provide insurance coverage for injury to Court ordered persons providing community work and for bodily injury or property damage liability to third parties caused by these persons while under Court order. This insurance would be primary in the absence of other valid and collectable insurance coverage. If the municipal or nonprofit organization sponsor has insurance for workers' compensation and comprehensive general liability which applies to these persons, then the State insurance will provide coverage on an excess basis only.

Between the State and the sponsoring entity, there will be adequate coverage to protect both the Court ordered participant and the public.

Any questions pertaining to this procedure should be referred to the Division of Risk Management.

Sincerely,

John Haywood
Director

JH/bab
cc: Pat Conbeady
Kathy Kolkhorst
Karla Forsythe

MEMORANDUM State of Alaska

TO: Patrick W. Conheady
Assistant Attorney General
Pretrial Intervention Program

DATE: January 6, 1982

FILE NO:

TELEPHONE NO:

FROM: John Haywood, Director
Division of Risk Management
Department of Administration

SUBJECT: Community Work Service

This memo is to further clarify my letter of November 20, 1981 to Arthur H. Snowden regarding liability of the State for community work service. It is the intention of the Division that the coverage provided will extend likewise to community work service arranged by the Department of Law, Criminal Division, Pretrial Intervention Program.

I trust this clarifies this matter.

COMMITTEE REPORT

SENATE

FURTHER: None

1/12/82

Date: 10 Feb 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 648

workers' compensation coverage of certain persons providing community work service

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

S 6C (Rev. 12/78)

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce Date: 10 February, 1982

Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Zi[illegible]ler Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 648, SB 663, SB 700

COMMITTEE CALENDAR

SB 648 "An act relating to workers' compensation coverage for certain
bill number bill title persons providing community work service."

bill number bill title

WITNESS REGISTER

Witness Name: Mr. Pat Conheady , Assistant A.G.
Affiliation: Department of Law
Address: Juneau, Alaska
Phone:
Summarized Position Statement: Testified in support of the bill, provided the committee with background information pertaining to the bill, and answered ques-

PREVIOUS ACTION

tions of the committee.

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp: Move the bill with individual recommendations;
Action: Passed or Failed
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording
Number 0000 Chair opens at 024 with members 3 present etc.

Testimony of Mr. Conheady begins at tape reading 024 and continues through tape reading 125.

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce **Date:** 10 February, 1982

Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler

Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 648, SB 663, and SB 700;

COMMITTEE CALENDAR

SB 648 — bill number
"An act relating to workers' compensation coverage for certain persons providing community work service." — bill title

bill number — bill title

WITNESS REGISTER

Witness Name: Ms. Bev Koski
Affiliation: Division of Risk Management, Department of Administration
Address: State Office Building
Phone:
Summarized Position Statement: Supported the testimony of Pat Conheady and urged passage of the bill.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Fahrenkamp: Move the bill with individual recommendations;
Action: Passed or Failed
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording Number 0000

Chair opens at 127 with members 3 present etc.

Ms. Koski testimony occurs at tape reading 127, and supports the testimony of Mr. Conheady (tape log 024-125).

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of article III, section 18 of the Alaska Constitution, I am transmitting a bill to amend the definition of "employee" contained in the Workers' Compensation Act to provide workers' compensation for offenders injured during the performance of community work service.

Under the current definition of "employee" contained in the Act, an offender performing community work service resulting either from an alternative sentence under AS 12.55.015(a)(6) or from a diversion agreement with state or municipal prosecutors executed under the Department of Law's Pretrial Intervention Program is not eligible for compensation for injuries sustained during the performance of community work service. In attempting to implement the legislature's intent that the state develop alternative sentencing programs, this exclusion has proven to be a problem in that the sole remedy provision of workers' compensation is not applicable and an injured offender may recover only by means of a tort action. Pursuing a tort remedy is much less certain in terms of compensating the person for an injury, and it could result in exceedingly large judgments against a negligent party -- contrary to the purposes of workers' compensation Acts.

Additionally, the absence of a workers' compensation exclusive remedy provision is creating a reticence on the part of some organizations to accept referrals, in view of the potential liability which may result. By including offenders injured in the performance of community work service within the scope of the Workers' Compensation Act, additional costs for liability are minimal and implementation of the community work service sentencing alternative included in the revised criminal code will be facilitated.

Sincerely,

Jay S. Hammond
Governor

For cases construing former statute directing imprisonment on judgment for payment of fine, see Williams v. Illinois, 399 U.S. 235, 90 S. Ct. 2018, 26 L. Ed. 2d 586 (1970); Hood v. Smedley Sup. Ct. Op. No. 800 (File No. 1406), 498 P.2d 120 (1972).

Sec. 12.55.055. Community work. (a) The court may order a defendant convicted of an offense to perform community work as a condition of a suspended sentence or suspended imposition of sentence, or in addition to any fine or restitution ordered. If the defendant is also sentenced to imprisonment, the court may recommend to the Department of Health and Social Services that the defendant perform community work.

(b) Community work includes work on projects designed to reduce or eliminate environmental damage, protect the public health, or improve public lands, forests, parks, roads, highways, facilities, or education. Community work may not confer a private benefit on a person except as may be incidental to the public benefit. (§ 12 ch 166 SLA 1978)

Secs. 12.55.060 — 12.55.075.

Repealed by § 21 ch 166 SLA 1978.

Cross references. — For provisions as to sentencing reports, see AS 12.55.025. As to sentences of imprisonment for felonies, see AS 12.55.125. As to sentences of imprisonment for misdemeanors, see AS 12.55.135.

Editor's note. — The repealed sections derived from §§ 8.06, 8.07, ch. 34, SLA 1962; § 1, ch. 6, SLA 1966; § 1, ch. 60, SLA 1974.

Sec. 12.55.080. Suspension of sentence and probation. Upon entering a judgment of conviction of a crime, or at any time within 60 days from the date of entry of that judgment of conviction, a court, when satisfied that the ends of justice and the best interest of the public as well as the defendant will be served thereby, may suspend the imposition or execution or balance of the sentence or a portion thereof, and place the defendant on probation for a period and upon the terms and conditions as the court considers best. (§ 8.08 ch 34 SLA 1962; am § 24 ch 43 SLA 1964; am § 8 ch 68 SLA 1965)

Cross references. — See Cr. R. 35 (k). For additional circumstances where a defendant's sentence may be modified, see AS 12.55.088.

The power to suspend sentence is not inherent in the judicial branch of government. Pete v State, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1963).

Such power must be conferred by the legislature. — The power to suspend sentences exists only when conferred upon the judiciary by the legislature. Pete v. State, Sup. Ct. Op. No. 137 (File No. 290), 379 P.2d 625 (1963).

Parallels 18 U.S.C. § 3651. — Alaska's probation statutes, this section, AS 12.55.090 and AS 12.55.100 closely parallel the federal statute, 18 U.S.C. § 3651, which empowers federal district courts to grant probation. Brown v. State, Sup. Ct. Op. No. 1367 (File No. 2890), 559 P.2d 107 (1977).

This section and AS 12.55.090 appear to have been modeled after the federal statute, 18 U.S.C. § 3651. Tiedeman v. State, Sup. Ct. Op. No. 1592 (File No. 3394), 576 P.2d 114 (1978).

The Alaska probation statutes, this section, AS 12.55.090 and 12.55.100, use

much of the same lang
§ 3651, and were appar
the federal law. Gonzale
Op. No. 2040 (File No.
(1980).

This section and
construed in pari mat
essentially identical sec
together in § 1, ch. 19
section and AS 12.
construed with re
in pari materia. Jackso
Op. No. 1194 (File No.
(1975).

This section and
apply to Chapters 10 a
— The provisions of th
12.55.085(a) govern
imposition of sentence
applicable to violations
12 of Title 17. Speas v.
No. 889 (File No. 155
(1973); Call v. State, Su
(File No. 1844), 511 P.2

The two-year min
requirement of AS
thus been implicitl
contrary to more rece
legislative intent. Speas
Op. No. 889 (File No. 1
(1973); Call v. State, Su
(File No. 1844), 511 P.2

This section and AS 1
both the mandatory m
provision of AS 17.10.2
where specific prov
made" language of AS 1
State, Sup. Ct. Op. No. 8
511 P.2d 130 (1973).

The mandatory req
17.10.200 have been
section and AS 12.55.0
suspended imposition
parole. White v. State,
1055 (File No. 1907), 52

State law prohibi
enacting an ordinanc
mandatory minimum
Kodiak v. Jackson, Sup
(File No. 3480), 584 P.2

Mandatory minimum
by city ordinances are
conflict with state
Municipality of Anchor
No. 1793 (File No. 39
(1979).

The mandatory
sentencing provisions
providing for a man
sentence on conviction
police officer were irrec
section and AS 12.55

(5) "grandchild" means a child as defined in (4) of this section of a child as defined in (4) of this section;

(6) "brother" and "sister" include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers and married sisters unless wholly dependent on the employee;

(7) "child," "grandchild," "brother," and "sister," include only persons who are under 19 years of age, persons who, though 19 years of age or over, are wholly dependent upon the deceased employee and incapable of self-support by reason of mental or physical disability, and persons of any age while they are attending the first four years of vocational school, trade school, or college, and persons of any age while they are attending high school;

(8) "compensation" means the money allowance payable to an employee or his dependents as provided for in AS 23.30.005 — 23.30.270, and includes the funeral benefits provided for in AS 23.30.005 — 23.30.270;

(9) "death" as a basis for a right to compensation means only death resulting from an injury;

(10) "disability" means incapacity because of injury to earn the wages which the employee was receiving at the time of injury in the same or any other employment;

(11) "employee" means an employee employed by an employer as defined in paragraph (12);

(12) "employer" means the state or its political subdivision or a person employing one or more persons in connection with a business or industry coming within the scope of AS 23.30.005 — 23.30.270 and carried on in this state;

(13) "injury" means accidental injury or death arising out of and in the course of employment, and an occupational disease or infection which arises naturally out of the employment or which naturally or unavoidably results from an accidental injury, and includes breakage or damage to eyeglasses, hearing aids, dentures, or any prosthetic devices which function as part of the body and further includes an injury caused by the wilful act of a third person directed against an employee because of his employment;

(14) "insurance commissioner" refers to the person who heads the insurance division or section of the Department of Commerce and is charged with the administration of the state insurance laws;

(15) "married" includes a person who is divorced but is required by the decree of divorce to contribute to the support of his former spouse;

(16) "medical and related benefits" includes but is not limited to physicians' fees, nurses' charges, hospital services, hospital supplies, medicine and prosthetic devices, physical rehabilitation, and treatment for the fitting and training for use of such devices as may reasonably be required which arises out of or is necessitated by an

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No.
Title "An Act relating to Workers' Compensation coverage . . ."
Requested by Rules Committee Date 1/8/82

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Workers' Compensation
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

IV. DATE January 8, 1982 PREPARED BY Judy Knight
AGENCY Labor
PHONE 465-2700

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
12/81\

SB

652

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January [illegible]

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to preservation of the confidentiality of trade secrets and other proprietary information submitted to the Department of Environmental Conservation. The bill improves access by the department to confidential information by assuring the person supplying the information that confidentiality would be preserved. This is especially important to effectively regulate air and water quality and solid waste discharges.

The bill is very similar to the provisions of SB 90 and HB 7 which are currently in the Senate Rules and House Judiciary committees, respectively. The provisions of AS 46.03-.865(a), (b), (c) and (e) in sec. 1 of the bill are nearly identical to the provisions of AS 40.25.015(e)(11), (f), (g), and (h), respectively, which would be enacted by SB 90.

The primary differences between this bill and SB 90 are that this bill (1) deals only with trade secret information submitted to the Department of Environmental Conservation; (2) includes trade secrets voluntaril submitted to the department; (3) requires a written request of confidentiality; (4) allows release of the confidential informa ion sooner than 20 years after submittal, upon authorization of the person supplying the information; and (5) requires the department to provide a general description of all information which it is keeping confidential.

Sincerely,

Jay S. Hammond
Governor

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 "secretary of state" has been changed to "lieutenant governor" in conformity with the 1970 Alaska constitutional amendment (SJR 2) changing 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 conform to 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. Hickel, 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
30. Consistency between regulation and statute

Alaska Statutes

Title 46. Water, Air and Environmental Conservation.

Chapter

03. Environmental Conservation (§§ 46.03.010 — 46.03.900)
05. Water Pollution Control Act (Repealed)
07. Village Safe Water Act (§§ 46.07.010 — 46.07.080)
10. Pollution as Nuisance (Repealed)
15. Water Use Act (§§ 46.15.010 — 46.15.270)
25. Alaska State Commission of Oceanography (Repealed)
26. Commission for Ocean Advancement Through Science and Technology (Repealed)
30. Certification of Operators (§§ 46.30.010 — 46.30.130)
35. Environmental Procedures Coordination (§§ 46.35.010 — 46.35.210)
40. The Alaska Coastal Management Program (§§ 46.40.010 — 46.40.210)

Chapter 03. Environmental Conservation.

Article

1. Declaration of Policy (§ 46.03.010)
2. Department of Environmental Conservation (§§ 46.03.020 — 46.03.040)
3. Water Pollution Control (§§ 46.03.050 — 46.03.130)
4. Air Pollution Control (§§ 46.03.140 — 46.03.240)
5. Radiation Protection (§§ 46.03.250 — 46.03.310)
6. Pesticide Control (§§ 46.03.320 — 46.03.330)
7. Prohibited Acts and Penalties (§§ 46.03.710 — 46.03.850)
8. General Provisions (§§ 46.03.860 — 46.03.900)

Editor's note. — Section 5, ch. 120, SLA 1971, provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act, remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative committee report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. proposed (Dept. of Law File #J-77-046-82
Title "An Act relating to confidentiality of trade secrets supplied to DEC."
Requested by the Dept. of Environmental Conservation Date 1/6/82

II. FISCAL DETAIL
Agency Affected there is potential for all State agencies to be affected
Program Category Affected see above
BRU, Program, Or Subprogram(s) Affected see above
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-0-	-0-	-0-			
200 TRAVEL	-0-	-0-	-0-			
300 CONTRACTUAL	-0-	-0-	-0-			
400 COMMODITIES	-0-	-0-	-0-			
500 EQUIPMENT	-0-	-0-	-0-			
600 LAND & STRUCTURES	-0-	-0-	-0-			
700 GRANTS,CLAIMS,ETC.	-0-	-0-	-0-			
TOTAL	-0-	-0-	-0-			

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	-0-	-0-	-0-			
PART TIME	-0-	-0-	-0-			
TEMPORARY	-0-	-0-	-0-			

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

IV. DATE January 5, 1982 PREPARED BY Lynn H. Suksdorf
AGENCY Dept. Environmental Conservation
PHONE 465-2640

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
03-001 (Rev. 12/81)

SB
665

COMMITTEE REPORT

SENATE

FURTHER: Finance

1/18/82

Date: 1 March 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 665

making a supplemental appropriation to the Department of Commerce and Economic Development for the low income weatherization program

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

_____

_____

_____

_____

_____

_____

_____

_____

_____

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

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_____

_____

_____

_____

_____

CHAIRMAN

S 60 (Rev. 12/78)

TESTIMONY ON SENATE BILL 665

"Energy is the only real wealth in the new order. But, like all wealth it is finite. It must be the lemming in us that makes production with a capital "P" so much more attractive than conservation. To waste our knowledge and technology of totally renewable resources on a glut of stagnant, oozing ferment limited by the amount of decayable material that was obliterated by mother nature 30 million years ago seems the height of folly. When will we stop?"

Buckminster Fuller
"Critical Path"

My name is Robert Robadeau and I am a member of the City Council of Unalakleet as well as the Chairman of the Energy Planning Board which is the first attempt in our village to unify the I.R.A. Council, the Native Corporation and City Government in a common goal. Traditionally a Native village is a single living organism; a bond of community with a single purpose. To survive, perhaps when possible, with a degree of comfort. But comfort is a matter of comparison. To you comfort may be crisp, clean sheets each night; a steak not too well done; or no lines at the local gas pump. To us in Northwestern Alaska it is shelter, warmth, food and survival.

The differences in our perceptions of comfort is what I have come to talk to you about today.

Martha Nanouk is 77. She is mother to 14, grandmother to 43, great grandmother to 31. Martha has no income. The checks which keep her home heated, her stomach full, her many generations of children in spending money is not income. She has been told it is the privilege of the government to give her money for her long service, her many years of being a part of Unalakleet. Because she has no income, she qualifies for no loans. Martha is too used to giving to know the rules about asking. But before I came down here she asked me if I would ask you to fix her house. Although her house is not an old one it has withstood the east wind and our winters for one too many years with open cracks in the door jams that makes shoveling out the kitchen after a snow storm a matter of course. She has stuffed moss in the bigger holes but the hollow core door lets the cold through anyway. Her walls have all the insulation the designer thought necessary when the house was designed for suburban Arizona. Martha receives help from some agency, she is not sure of which one; to pay her electric bill so the few dollars she could set aside for repairs to cut the

high fuel bills would not be put back in her pocket, are spent paying a great grandchild to shovel out her kitchen.

Once you break a ridge pole in a log cabin it begins to resemble a large snow drift very quickly. Andrew Bang's home broke its ridge pole 17 years ago when his cabin was hooked to a bulldozer and dragged back away from the crumbling bank that threatened to deposit his home in the river mouth. Andrew is 83. His parents came to Alaska to herd the reindeer and he has lived his life on Norton Sound. Andrew has stretched waxed paper on his windows, the Nome Nugget is chinked into his walls· he uses a wood stove for heat, but he must keep an oil burner on, for days he can't chop wood and haul it from the beach. He pays half again as much for his fuel oil as you. Andrew receives $250 per month, this is the money he has to stay alive and maintain his degree of comfort.

Energy is our life blood, and energy is expensive. When I talk to Martha and Andrew I tell them that the State of Alaska is very interested in helping to relieve the heavy burden of costs. I tell them that a billion dollars is as many greenbacks as the sand on the beach and that is what our state will spend next year on the energy problem. I haven't told them that 95% of that will only help the people living in the cities of the Great Land. I would feel embarrassed.

"But can you fix our house?" they asked me; and I am here to ask you.

I want to go back and tell them yes. With the additional handicap of including our prohibitive freight costs in the total grant leaves only slightly more than half of the money left over for materials. Why should we who have the greatest need because of our poor housing, high energy costs, and more severe climate be given only half the help of residents who reside in urban areas?

We need weatherization. We are an independent breed of folks in Unalakleet. We would like the means to become self sufficient once again. We do not want huge subsidies that hide the cost of energy. We do not want huge projects along the lines of the pyramids or the Hoover Dam. We want the ability to lessen our need, our dependence. Conservation!

Our local Energy Planning Board wants to be able to formulate a comprehensive, long range energy blueprint for our village. As reapportionment rears its ugly head we are not naive enough to demand new programs, new legislation. All we are asking is that you allow us to use the existing programs under the intent of the law. In our village we hope to establish a model energy plan to lead the way of other villages in our area. But we need the weatherization

project to help us inventory our need. Even the $1,500 before freight is nowhere near what 70% of our homes need now to meet our new building codes for a weather efficient house. But, it is a start. If I can go back to all of the Marthas and Andrews and tell them that next winter their fuel needs will drop by 20% I will feel that a start has been made.

Ideally, I hope that you will do all in your power to help us make use of the conservation audit program, the weatherization program, and the findings of the village energy Reconnaissance Program. If these three similar projects could be brought under the administration of one agency, coordinated by a village planning board the, immediate benefits would be twofold. First, each home would be eligible for a $300 grant and the $5,000 loan program as benefits of the audit, and the $1,500 material fees in order to approach minimum weatherization standards. Secondly, the real wealth of all three of these programs is not in the money provided to each home, but more importantly a total energy use inventory of each housing unit would provide the data needed for our comprehensive plan. Without the data base cost effective programs would be as impossible to design for rural Alaska as they are now. Conservation is part of the Eskimo culture traditionally regulated by the harsh environment. Give us the means to use conservation rather than subsidies to approach our degree of comfort. The old adage about giving a man a fish and he eats once, but teaching him to fish feeds him for life seems to have more meaning to me these days. With our energy needs your subsidy programs taught us to eat too much without teaching us the brutal facts of overconsumption. Soon we will be left with huge needs and no subsidies. Let us learn again how to conserve. I urge you to pass Senate Bill 665 immediately. It is just a step towards our energy independence.

Thank you.

My name is George Olanna from Nome, originally from Shishmaref about 125 miles north of Nome. I am working for Kawerak, Inc., non-profit organization of Bering Strait Regional Corporation. I am a Certified Teacher and work as ABE teacher for Kawerak.

I am in support of SB 665, providing that rural villages get their share. Our region is cold, lot colder than southern part of our state. There are lots of homes right now in the villages that need up-grading. We needed this program long time ago. We had weatherization program in Shishmaref about 4-5 hears ago. The problem was that most of the homes did not get help. It was not enough.

The money that is approved for the villages is, in most case, not enough due to high cost of transportation.

We also need to train our people to do home audits. We live in these homes and know what is needed. The problem with home audit programs is that induviduals who are eligible for $300 grants can receive $300 to improve their homes. But what is $300 in the villages? What can we get with $300? Not much. The value of $300 is like a penny. We can qualify for home improvement loans up to $5,000 after the home audits are done. But who can afford to borrow money when there is no employment in the villages?

The cost of fuel is very high in the villages. In Shishmaref during the winter months, a drum of stove oil will last one week, in most of the homes. We need to repair these homes to offset the cost of fuel and electricity. Without weatherization programs for low-income families, it is impossible to obtain the material we need.

At this time I like to read a letter of support from Norton Sound Health Corporation Board of Directors, signed by Clinton Gray, Executive Director, for Charles Soxie, Chairman of the Board.

Thank you for giving me this time.

NORTON SOUND
HEALTH CORPORATION

P.O. BOX 966
NOME, ALASKA 99762
(907) 443-5411

February 22, 1982

To Whom It May Concern:

The Board of Directors of Norton Sound Health Corporation convey their support for Senate Bill 665 relating to the weatherization program for low-income households.

Further, the Board supports this program for all rural Alaskan communities. The Norton Sound Health Corporation views the weatherization program as a vital element in safeguarding the health and well-being of rural Alaskans.

Sincerely,

Clinton Gray, Jr. for

Charles F. Soxie
Chairman, Board of Directors

My name is Frank Fox. I work for Nunam Kitlusisti as Energy Planner for Bethel area. The villages I work with are from Tuluksak to Eek down river from Bethel including Tuntutuliak. All are within 50 miles radius from Bethel.

The villages I work with have had problems in the past about winterization. When we make orders from Seattle from the villages, our orders arrive in mid-part of August just enough time to do some work in some homes.

Sometimes the supply doesn't arrive all in one package. When this happens the cost of transportation goes up to fly them to villages from Bethel.

Last year, cost of building material by barge was $5.44 per 100 lbs. for lumber and $9.35 per 100 lbs. for insulation. The cost would go up about 10% this summer.

I am in support of SB 665, providing that rural villages get their share. With the high cost of heating fuel, this program is badly needed in out area. Thank you. I am looking forward for your help and you will help!

Testimony of the Rural Alaska Community Action Program, Inc. on Senate Bill 665

RurAL CAP appreciates the opportunity to comment on SB 665, the supplemental appropriation to the low income weatherization program, and we strongly recommend speedy approval of the $1.5 million appropriation. Fast action is necessary to ensure that remote rural communities are able to participate on an equal footing. The level of federal funding that Alaska receives for this program has been cut back substantially, and the arrival of the diminished federal dollars has been delayed until approximately April 1. Consequently, barge deadlines for rural areas may be missed. As a result, the State will be spending nearly all of the money in urban and roadaccessible areas. Expedited approval of SB 665 would help to offset the large reduction in this year's federal grant and help ensure that rural communities facing the highest energy costs of all are served by this vitally needed program.

The need for weatherization for lowincome families exists throughout the state, but nowhere is that need more critical than in rural Alaska. There, energy costs range from $1.50 to over $3.00 per gallon for heating fuel. The climate of Western, Interior and Northern Alaska is significantly more severe than that of the rest of the state. The result is that some families are forced to pay from $1,000 to $4,000 to heat homes that are smaller than some urban garages. Per capita incomes in certain rural areas, sometimes less

than onethird of the levels in Anchorage, Juneau and Fairbanks, often end up being halfspent on energy and transportation costs. The lack of year round surface transportation causes problems in maintaining a secure year round fuel supply. Cutbacks in federal money for new housing mean that insulating existing houses properly is even more important.

Every gallon of fuel saved under this program in rural areas has a very high payoff to people with very low incomes. RurAL CAP's preliminary study of energy savings under the federally funded weatherization program based on our 1978 and 1979 Nome project show actual energy savings of over 14% for most households, or an average of $200 per household per year in 1980.

Because our study assumptions were very conservative, those savings are likely to be even higher. Unlike many programs which aid low-income persons, this program offers people a chance to reduce their reliance on welfare by reducing the money they spend on energy.

Small wonder, then, that the Northwest Alaska's Mayors Conference and the state's Weatherization Policy Advisory Committee have called for speedy passage of SB 665.

Why is a supplemental appropriation for lowincome weatherization necessary? Repeated delays in the delivery of the federal grant mean that there would be problems in meeting deadlines for rural areas. A large reduction in the amount of the federal grant means that there is little money

to meet a large need. The state has therefore decided to spend an unusually large share of the grant in urban areas and on the road system, where houses can be weatherized more quickly and more cheaply.

The result is that areas with very great need for low-income weatherization will be left out for yet another year. Omitted are areas like the Calista region, which has one of the lowest per capita incomes in the state and among the lowest number of homes weatherized. Also omitted are the Aleutians, where the high cost of travel and restrictive federal administrative cost regulations mean that weatherization is extremely difficult. Northwest Alaska, with an especially harsh climate and high energy costs, is omitted because certain communities have had 11% of the houses weatherized under the program. Other communities in the same region have never received weatherization services. Speedy passage of the supplemental appropriation will enable deserving people in these areas to receive weatherization.

We call on the Legislature to express its intent that these supplemental funds be geographically distributed in the proportion that federal weatherization monies have historically been distributed -- approximately 75% to rural areas; and 25% to urban areas. This distribution reflects the higher costs, more severe climate, and lower incomes of Alaska's rural areas. This 75/25 split would restore the program's historic distribution before it was disrupted by delays in this year's federal grant.

Barge deadlines imposed by outside shipping companies and

the mechanics of the bureaucracy do require speedy action by the legislature. Because the state's fiscal year ends right in the middle of the construction season, it is necessary to make sure the appropriation will not lapse until the end of fiscal 1983 (June 30, 1983).

In addition to expanding the list of areas served, the supplemental will also enable more people to save more energy and money in those areas which are to be served by the federal program. Part of the supplemental should be used to offset the reductions in the number of people served in a given area caused by the reduction in the federal grant. All of the supplement should be used to bring flexibility to the rigid federal regulations which don't reflect Alaska's special circumstances. The federal regulations need more flexibility in three areas:

1. The current limit of $1,008 worth of materials (including freight) per house should be increased to $1,500 of materials before frieght (F.O.B. Anchorage or Seattle). The $1,008 limit has not been increased since the program began in 1975. Since then, inflation has cut the purchasing power of that $1,008 in half. The limit is so low that major cost savers like wall insulation often cannot be done.

The inclusion of freight in materials cost is not a problem in the lower 48, where nearly everyplace has cheap surface transportation. But in Alaska, to include frieght in the materials costs unfairly discriminates against the areas of highest need by reducing the amount of energy savings materials that are allowed. A more reasonable limit of $1,500 <u>before freight</u>, would treat all areas of the state fairly

and ensure that necessary energy saving improvements will be made. Since homes done with federal money will otherwise be bound by the federal limit of $1,008, we recommend that the Legislature allow some of the supplemental funds to be used to increase that limit to $1,500 before freight.

2. The categorical restrictions on types of materials expenditures also need more flexibility. For example, many houses are in very bad repair, but the $250 limit on general repairs often means that important energy-related improvements cannot be made. Leaky roofs or rotten windows allow moisture to destroy the value of insulation. Sealing air leaks in the house may require big improvements, such as pieces of new siding or new stove pipes. $250 for repairs does not go far in rural Alaska.

3. The third major need is for flexibility in setting and applying the low-income guidelines for Alaska. Though the federal regulations allow Alaska's cutoff to be higher, there is no allowance for regional variations within Alaska. We would endorse a formula which adjusts weatherization income guidelines for the higher cost of living in various areas of the state.

In conclusion, the low income weatherization program is successful; it is needed. Without SB 665, it will not reach the areas of greatest need and it will not serve the areas it will reach as well as it could. We call on the Legislature and Governor to approve SB 665 as soon as possible.

THE NEED FOR WEATHERIZATION IN RURAL ALASKA

As Found in Alaska Power Authority Village Energy Reconnaissance Studies

NORTEC: Grayling, Scammon Bay, Goodnews Bay, Togiak

"The actual oil consumption in this area ('The Western Alaskan region where degree days vary from 12,000 to 14,000 days per year'.) is approximately 40-50% greater than required for a well-insulated home...Energy conservation offers the best opportunity in the villages for reduction of oil consumption and energy costs... These (energy conservation) technologies have the highest reliability, the greatest availability, and are most appropriate for the area involved."

Roy Barkwell:* Savoonga

"...Conservation of residential heating fuel has definite merit... The author's judgment from past experience and the site visit is that approximately 30% of this heat could be conserved through upgrading of building envelope by weatherstripping, added insulation, etc....The primary advantage of this technology is inherent in its low capital cost requirements and lack of complex maintenance and operations procedures."

Marks Engineering: Tanana

Conclusions: "Heating requirements ... can be greatly reduced if the structures are upgraded with energy saving improvements."

Recommendations: "Community residents should be encouraged to weatherize...."

CH_2M Hill: Ahkiok, King Cove, Larsen Bay, Old Harbor, Ouzinkie, Sand Point

Recommendations for all villages: Feasilibity studies of heat energy conservation (i.e. weatherization).

(This recommendation for a feasibility study of weatherization reflects the cumbersome way the reconnaissance process works in Rural Alaska when consultants apply it literally without taking

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*Master's Thesis based on work done for Fryer: Pressler: Elliott reconnaissance of Savoonga.

into account the special circumstances in rural areas. At least one other consultant, NORTEC, has said no feasibility study is necessary for weatherization, since we already know that it works and is greatly needed.)

Retherford Associates: Buckland, Koyokuk, Russian Mission, Sheldon Point, Chuathbaluk, Crooked Creek, Nikolai, Red Devil, Sleetmute, Stony River, Takotna, Telida, Hughes

"It cannot be overemphasized that if villages wish to stabilize and hopefully reduce the local cost of energy, immediate short-term conservation measures must be implemented. These conservation measures . . . can reduce current non-transportation fuel use on the order of 15 percent over the 20 year period of this study."

(It is ironic to note that this study simply assumed that energy conservation would be done and did not include this important energy strategy in the list of options studied.)

Wind Systems Engineering: Shungnak, Kiana, Ambler

Recommendations in all three villages: An "integrated" approach to conservation and weatherization:

"Increasing end use (energy) efficiency is as important as increasing (energy) conversion efficiency. This approach looks at energy as both electrical and thermal and takes advantage of reduced electric consumption associated with a well-insulated thermally tight building. Community facilities which are consolidated and built with energy efficient appliances, load management, and a well insulated shell make excellent sense from an integrated energy standpoint."

Fryer: Pressley: Elliott: Elim, Savoonga, Kaltag, White Mountain

Recommendations for all four villages: To bring in an auditor/energy specialist to help the villages participate in existing federal and state weatherization programs. (The consultants did not check whether those programs have enough money to meet weatherization needs of rural households.)

MINUTES OF THE LOW-INCOME WEATHERIZATION
POLICY ADVISORY COMMITTEE MEETING OF
FEBRUARY 10, 1982

The meeting was called to order at 1:15 p.m.

Members Present: Tom Hunter, Doug Elliott, Patrick Durkin, Budd Goodyear, Shirley Yocum, Earl Finkler for Johnny Adams, Jan Sarice for Eric Sutcliffe

Members Absent: Vera Gazaway, Ted Wellman

State Personnel Present: Mike Carr, George Skladal

Guests Present: Vince Holton, Bob Lohr

The meeting was called to order by Mike Carr, the acting Chairman, and the introduction of the new members and representatives was completed. Also, it was announced that Fred Janvrin, from the University of Anchorage Alaska, has resigned from the Policy Advisory Committee (PAC).

George Skladal made an opening statement for the Department of Energy and Power Development (DEPD) thanking the PAC members for their participation and asking for their continued support.

The minutes of the January 8, 1982 PAC meeting were read and approved as a matter of record. Moved by Doug Elliott, 2nd by Tom Hunter, vote unanimous.

OLD BUSINESS

Election of a Chair person:

The necessity of choosing a chairperson was discussed. Since no member would volunteer to serve as chair person, Mike Carr was asked to serve as temporary chairman until the members of the PAC would be able to choose a member for the position.

State Plan Funding Allocation:

Mike Carr presented the States' substitute Funding Allocation Plan in response to the PAC's suggestions from the January 8, 1982 meeting. Bob Lohr voiced RurAL CAP's support of the substitute plan and withdrew the plan suggested by RurAL CAP earlier in the week. After much discussion and debate, and the consideration of amendments made and withdrawn, the State's substitute Funding Allocation Plan was approved by a vote of 6 in favor and 1 opposed. Motion for approval was made by Doug Elliott and seconded by Earl Finkler.

Final Approval of the State Plan:

A motion to approve the State Plan as amended was made by Tom Hunter and seconded by Pat Durkin. The motioned passed by a vote of 6 in favor and 1 opposed.

NEW BUSINESS

Senate Bill 665:

The PAC discussed the need for additional funding to supplement the federal support for the Weatherization Program. Discussion centered on the legislation introduced by Senator Fergusen and how it could be used to augment the program. It was decided that the PAC would send a resolution in support of SB 655 to the Governor and each member of the State House and Senate. The following resolution was moved for adoption by Earl Finkler and seconded by Budd Goodyear. The motion was passed by unanimous consent.

It is resolved that the Weatherization Policy Advisory Committee supports the appropriation of $1,500,000, as provided by Senate Bill 655, to supplement funding for the existing federal Low-Income Weatherization Assistance Program; and it is further resolved that the funding be authorized for utilization to meet the unique needs of Alaskans, and not be bound by federal limitations which are unduly restrictive as applied to Alaska.

Governors' Request for '83 Funding:

The PAC discussed the Governor's Capitol Improvements budget and the $5,000,000, allocated for low-income weatherization under the Residential Energy Conservation Program. The PAC decided that a second resolution should be sent to the Governor and each member of the State House and Senate in support of this allocation of funds. The following resolution was made for adoption by Pat Durkin and seconded by Doug Elliott. The motion was passed by unanimous consent.

Whereas, there is a great unmet need for Low-Income Weatherization Assistance in the State of Alaska, and;

Whereas, Federal funds for this purpose have been significantly reduced and elimination of the federal funding is likely in 1983;

Therefore, be it resolved, that the Weatherization Policy Advisory Committee supports the Governor's request for creation of a state funded Low-Income Weatherization Assistance Program, and also, supports the appropriation of $5,000,000, to fund this program through fiscal year 1983.

Future Meetings:

It was decided that no date be set for the next meeting of

the PAC until such time as funds are appropriated by the State or until an unexpected situation demands the participation of the PAC.

PAC Chairman:

Budd Goodyear volunteered to serve as Chairman of the PAC for the remainder of the year. He will appoint someone to record the minutes of the meeting.

The meeting was adjourned at 3:50 p.m.

RESOLUTION

ENTITLED: URGING SUPPORT FOR SENATE BILL 665 TO PROVIDE FOR A COMPREHENSIVE WEATHERIZATION PROGRAM FOR LOW INCOME ALASKANS

WHEREAS, Energy costs of $3.00 per gallon for fuel oil is not uncommon in rural communities, and

WHEREAS, low income Alaskans are unable to bear these high energy costs, and

WHEREAS, federal programs that have traditionally subsidized the payment of low income people's housing energy bills are being dramatically cut and may be entirely phased out, and

WHEREAS, weatherization properly applied to low income households in rural Alaska to meet Alaskan climatic conditions with produce energy savings for the life of the home rather than subsidize bills on a one time basis, and

WHEREAS, the federally funded low income weatherization program has been cut and that limited funding for fiscal year 1982 will not be available in time time to meet barge deadlines for work in rural areas this summer, and

WHEREAS, a special appropriation called for in Senate Bill 665, if passed in a timely manner would insure that funding would be available in time to meet rural barge deadlines, and

WHEREAS, local and regional non-profit contractors would be used, and local hire would be used exclusively in the installation of weatherization materials in local communities, now therefore be it

RESOLVED, THAT THE NORTHWESTERN MAYORS CONFERENCE URGES THE ALASKAN STATE LEGISLATURE TO PASS SENATE BILL 665 AND ALSO URGES THAT THE GOVERNOR SIGN THE BILL IN TIME TO MEET SPRING BARGE DEADLINES AND INSURE THAT LOW INCOME RURAL ALASKANS RECEIVE WEATHERIZATION PROGRAM BENEFITS THIS SUMMER TO HELP MEET THE ENERGY NEEDS FOR THE COMING WINTERS.

PRELIMINARY REPORT

ENERGY SAVINGS FROM WEATHERIZATION IN RURAL ALASKA

INTRODUCTION:

MOST ANALYSES OF ENERGY PROBLEMS IN RURAL ALASKA ASSUME THERE IS SIGNIFICANT POTENTIAL FOR CONSERVING ENERGY USED IN SPACE HEATING. HOWEVER, TO DATE THERE HAS BEEN NO STUDY TO DETERMINE ACTUAL ENERGY SAVINGS THAT HAVE RESULTED FROM ATTEMPTS AT ENERGY CONSERVATION IN RURAL AREAS, SUCH AS THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM. RURAL CAP HAS STUDIED A SAMPLE OF HOMES IN NOME WHICH WERE WEATHERIZED UNDER THE FEDERAL PROGRAM IN 1978 AND 1979 TO DETERMINE THE RESULTING ENERGY SAVINGS. THAT PROGRAM PROVIDED A MAXIMUM OF $1,008 PER HOUSE FOR IMPROVEMENTS WHICH WOULD SAVE ENERGY. THE PROGRAM REGULATIONS IMPOSE VARIOUS SPENDING COST LIMITS ON SPECIFIC TYPES OF IMPROVEMENTS, SUCH AS THE PROPOSED $250.00 LIMIT TO BE IMPOSED FOR THE CATEGORY OF "GENERAL HEAT WASTE" IN THIS YEAR'S PROGRAM. DESPITE A FAIRLY DISTINCT DIFFERENCE IN THE QUALITY OF HOUSING, THESE SPENDING LIMITS WERE THE SAME FOR BOTH RURAL AND URBAN AREAS. IN ADDITION, THE HIGH COST OF TRANSPORTING MATERIAL TO RURAL AREAS LIMITED THE EXTENT OF IMPROVEMENTS THAT COULD BE MADE WITH THE AVAILABLE FUNDS.

FEDERAL FUNDING FOR THE PROGRAM HAS BEEN SEVERELY REDUCED AND MAY BE ELIMINATED NEXT YEAR. THE ALASKA LEGISLATURE IS CONSIDERING PROPOSALS TO USE STATE FUNDS ON WEATHERIZATION.

TO AID POLICY-MAKERS, INTERESTED PARTIES AND THE PUBLIC IN DISCUSSION OF ENERGY CONSERVATION IN RURAL ALASKA, RURAL CAP HAS PREPARED THIS STUDY OF ACTUAL ENERGY SAVINGS THAT HAVE RESULTED UNDER THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM IN NOME, ALASKA.

IT SHOULD BE EMPHASIZED THAT TWO DIFFERENT ISSUES ARE INVOLVED IN THIS STUDY. FIRST IS THE BROAD QUESTION OF THE POTENTIAL FOR ENERGY CONSERVATION IN RURAL AREAS, BASED ON ACTUAL FUEL USE BEFORE AND AFTER ENERGY CONSERVATION IMPROVEMENTS HAVE BEEN MADE. THE DISTINCTION BETWEEN USING ACTUAL BEFORE AND AFTER DATA AND USING SAVINGS ESTIMATED FROM ENERGY AUDITS IS IMPORTANT. THE SECOND QUESTION IS THE EFFECTIVENESS OF THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM ITSELF. THE PROGRAM MAY NOT REALIZE THE FULL POTENTIAL ENERGY SAVINGS FOR A VARIETY OF REASONS: SOMETIMES CONFLICTING GOALS (SUCH AS LOCAL EMPLOYMENT AND JOB TRAINING VERSUS QUICK COST-EFFECTIVE PROJECT MANAGEMENT); PROBLEMS IN ADMINISTRATION; THE LOW PER HOUSE EXPENDITURE LIMIT; AND THE LIMITS ON SPENDING FOR VARIOUS TYPES OF IMPROVEMENTS. THIS STUDY IS INTENDED TO SUGGEST ANSWERS TO THE FIRST QUESTION BY ANSWERING THE SECOND--TO DOCUMENT THE POTENTIAL FOR ENERGY CONSERVATION IN RURAL HOMES BY EXAMINING ACTUAL ENERGY SAVINGS UNDER THE FEDERAL

LOW-INCOME WEATHERIZATION PROGRAM. THE LIMITATIONS OF THE FEDERAL PROGRAM SHOULD BE KEPT IN MIND WHEN USING THE RESULTS TO ADDRESS THE BROADER QUESTION OF DEMONSTRATING THE POTENTIAL FOR ENERGY CONSERVATION IN RURAL AREAS.

METHODOLOGY:

THE STUDY BEGAN WITH THE NAMES OF WEATHERIZATION CLIENTS FROM 1978 AND 1979 IN NOME. RURAL CAP STAFF VISITED THE FUEL DEALERS IN NOME AND LEARNED THAT MOST OF THE CLIENTS PATRONIZED BONANZA FUEL EXCLUSIVELY. PATRONS OF THE OTHER FUEL DEALER, ARCTIC LIGHTERAGE, WERE DROPPED FROM THE SAMPLE. BONANZA HAS ON FILE MONTHLY STATEMENTS FROM CUSTOMERS WITH CHARGE ACCOUNTS FOR THE YEARS 1977-78 AND 1980-81. THE MONTHLY STATEMENT IDENTIFIES FUEL OIL PURCHASES, ALTHOUGH ONLY A TOTAL INVOICE CHARGE IS GIVEN. BY DEDUCTING THE CITY'S 3% SALES TAX AND DIVIDING THE AMOUNT PURCHASED BY THE PRICE IN EFFECT AT THE TIME, THE NUMBER OF GALLONS PURCHASED WAS DETERMINED. WHERE THE EXACT DAY OF PURCHASE WITHIN A MONTH WAS NOT LOGGED, THE LOWEST PRICE IN THE PERIOD WAS ASSIGNED TO THE PURCHASE. WITH MULTIPLE PURCHASES IN A MONTH THE LOWEST PRICE WAS ASSIGNED TO THE FIRST PUPCHASE, THE NEXT HIGHEST PRICE TO THE NEXT PURCHASE, ETC. BY ERRING ON THE SIDE OF LOWER PRICES THE NUMBER OF GALLONS IS OVERSTATED AND THE TOTAL SAVINGS IS UNDERSTATED. THIS METHOD WAS USED PRIMARILY FOR INCOMPLETELY LOGGED DATA IN THE YEAR AFTER WEATHERIZATION (1980).

SPECIFIC PRICE DATA FOR SALES DURING 1977 - APRIL 1978 ARE NOT YET AVAILABLE. THE PRICE IN EFFECT DURING MAY 1978 ($.785/GAL.) WAS USED. SINCE THIS PRICE IS CERTAINLY HIGHER THAN ACTUAL PRICES DURING THAT PERIOD, THE NUMBER OF GALLONS IN A GIVEN PURCHASE IS UNDERSTATED. BY UNDERSTATING BASE YEAR CONSUMPTION, WE UNDERSTATE THE ENERGY SAVINGS UNDER THE PROGRAM.

WHEN PRICE DATA FOR THAT PERIOD BECOMES AVAILABLE, A FINAL ANALYSIS WILL BE DONE. PRELIMINARY CALCULATIONS UNDER A VARIETY OF PRICE ASSUMPTIONS INDICATE THAT THE FINAL ANALYSIS WITH ACTUAL (I.E., LOWER) PRICES IN THE BASE YEAR COULD SHOW FROM 2-15 PERCENTAGE POINTS GREATER SAVINGS DEPENDING ON THE LEVEL OF CONSUMPTION.

STAFF AT BONANZA FUEL INFORMED US THAT ALMOST ALL CUSTOMERS EITHER ALWAYS PAY CASH OR ALWAYS CHARGE THEIR PURCHASES. MOST OF THE WEATHERIZATION CLIENTS ON OUR LIST DO CHARGE THEIR PURCHASES. THOSE WHO PAID CASH WERE DROPPED. IN ADDITION, CLIENTS WHOSE NAMES APPEARED IN BOTH YEAR'S WEATHERIZATION PROJECTS WERE ALSO DROPPED (TO AVOID COMPLICATIONS IN ACCURATELY IDENTIFYING POST-WEATHERIZATION FUEL USE). THE MONTHLY STATEMENTS OF THE REMAINING SAMPLE OF 21 CLIENTS WERE EXAMINED FOR 1977-78 AND 1980.

FURTHER DELETIONS FROM THE SAMPLE WERE MADE AFTER GATHERING THE AVAILABLE DATA. THE SAMPLE DID NOT INCLUDE CLIENTS FOR WHOM ONLY PARTIAL BEFORE AND AFTER DATA WAS AVAILABLE. IN ADDITION, THOSE

CLIENTS WHO DID NOT HAVE A CONSISTENT PATTERN OF FUEL PURCHASES DURING AT LEAST ONE OF THE YEARS BEFORE AND ONE OF THE YEARS AFTER WEATHERIZATION WERE DROPPED (FOR EXAMPLE, A GAP OF TWO MONTHS IN PURCHASES COMPARED TO OTHER YEARS INDICATES AN UNUSUAL ABSENCE, SUCH AS AN EXTENDED STAY AWAY FROM HOME.). IF THE PATTERN OF PURCHASES WITHIN EACH YEAR SHOWED GAPS BUT THE GAPS WERE CONSISTENT ACROSS THE YEARS, THE CLIENT WAS RETAINED IN THE SAMPLE. IN SOME INSTANCES, THE PATTERN OF PURCHASES ONLY ALLOWED COMPARISONS FOR 10- OR 11-MONTH PERIODS. WHERE THE PATTERN OF PURCHASES WITHIN THESE PERIODS ACROSS THE YEARS WAS CONSISTENT, THE CLIENT REMAINED IN THE SAMPLE.

THE STUDY ASSUMED THAT FUEL PURCHASES WITHIN THE PERIODS COMPARED FOLLOW THE PATTERN OF ACTUAL FUEL USE. IN A SCATTERED FEW INSTANCES, WHERE THE PATTERN OF PURCHASES SUGGESTED AN ADJUSTMENT TO REFLECT ACTUAL USE WAS NECESSARY, THE ADJUSTMENT WAS MADE BY PRO-RATING THE PURCHASE AMOUNT. (FOR EXAMPLE, WHEN THERE IS A PURCHASE ON THE FIRST AND LAST DAY OF THE PERIOD OF COMPARISON, ONE PURCHASE WOULD BE EXCLUDED.)

STAFF AT BONANZA FUEL INDICATED THAT ONLY ONE OF THE FINAL SAMPLE OF 14 MAY HAVE MOVED DURING THE PERIOD OF ANALYSIS. A CHANGE IN THE CLIENT'S ACCOUNT NUMBER AND A GAP IN THAT YEAR'S PURCHASES TEND TO CONFIRM THAT POSSIBILITY. THAT CLIENT HAS BEEN DROPPED FROM THE FINAL SAMPLE.

FUEL USE WAS ADJUSTED FOR DIFFERENCES IN HEATING DEGREE DAYS BETWEEN THE BASE YEAR AND THE YEAR AFTER WEATHERIZATION. FUEL USE WAS ASSUMED TO BE DIRECTLY PROPORTIONAL TO THE NUMBER OF DEGREE DAYS IN THE PERIOD OF COMPARISON.

FINDINGS:

DESPITE THE LACK OF PRICE DATA IN THE BASE YEAR, WHICH HAS CAUSED AN UNDERSTATEMENT OF ENERGY SAVINGS IN EACH HOUSEHOLD, AVERAGE ACTUAL SAVINGS ACROSS THE SAMPLE RANGE BETWEEN 7.2% AND 14.8%, DEPENDING ON THE EXACT COMPOSITION OF THE SAMPLE. THREE CLIENTS HAD GREATER ENERGY USE AFTER WEATHERIZATION, ONE SLIGHT (+1.3%); ONE MODERATE (+12.8%) AND ONE VERY HIGH (+47.9%). IN OUR PRELIMINARY DATA GATHERING, WE WERE UNABLE TO GATHER DATA TO CONTROL FOR FACTORS WHICH MIGHT EXPLAIN SUCH ANOMALOUS RESULTS, SUCH AS AN INCREASE IN HOUSE SIZE OR IN NUMBER OF HOUSEHOLD RESIDENTS OR A CHANGE IN LIFESTYLES. WE WILL ATTEMPT TO GATHER SUCH DATA FOR THE FINAL ANALYSIS. IN THE MEANTIME, WE HAVE PRESENTED A VARIETY OF AGGREGATIONS OF THE FINDINGS TO SHOW THE IMPACT OF VARIOUS CHANGES IN THE SAMPLE AS A RESULT OF THESE SOMEWHAT ANOMALOUS DATA POINTS.

WE BELIEVE THE YEARLY AVERAGE SAVINGS PER HOUSEHOLD OF ALL HOUSEHOLDS WITH SAVINGS, 14.8% OR $207.64 (ITEM B), BEST REFLECTS THE DEMONSTRATED POTENTIAL FOR ENERGY CONSERVATION IN RURAL HOUSEHOLDS UNDER THE FEDERAL LOW-INCOME WEATHERIZATION PROGRAM.

IF FINDINGS AT BOTH EXTREMES ARE ELIMINATED, THE AVERAGE SAVINGS RANGE FROM 9-11% (C - E). IN LIGHT OF THE STUDY'S CONSERVATIVE ASSUMPTIONS, THE PROBABILITY OF DEVELOPING DATA TO EXPLAIN THE ANOMALOUS FINDINGS, THE LOW PER HOUSE FUNDING UNDER THE WEATHERIZATION PROGRAM, AND THE PROGRAM'S CUMBERSOME REGULATIONS, WE CONCLUDE THAT THE RESULTS OF THE FEDERAL LOW INCOME WEATHERIZATION PROGRAM IN NOME, ALASKA INDICATE A SIGNIFICANT POTENTIAL FOR ENERGY CONSERVATION IN SPACE HEATING IN RURAL ALASKA. WE BELIEVE THAT THE FINDINGS SUGGEST EVEN GREATER SAVINGS COULD BE ACHIEVED UNDER A MORE FLEXIBLE PROGRAM WITH HIGHER EXPENDITURES PER HOUSEHOLD.

Findings

Annual Energy Savings under the Federal Low Income Weatherization Program in Nome, Alaska (1980)

Sample	% change in energy use	Money saved on Fuel 1980
001554	- 25.4	$524.92
792007	- 29.2	737.50
792011	- 10.3	159.18
792014	- 9.2	112.89
001547	- 15.1	392.20
001533	- 9.2	167.52
*001548	+ 1.3	N/A
*001545	+ 12.8	N/A
*792010	+ 47.9	N/A
792419	- 1.7	15.37
001541	- 7.6	113.62
001531	- 19.4	205.08
001556	- 19.8	305.55
001549	- 15.5	279.93

A Average, entire sample: -7.2%

B Average, omitting those with greater fuel use (*): -14.8%

C Average, omitting highest and lowest: -7.9%

D Average, omitting two highest and two lowest: -10.9%

E Average, omitting three highest and three lowest: -11.0%

Average cost savings per household, sample B $207.64

Money Saved By Weatherization

Client	% Savings	1980 Fuel Cost	19[illegible] Fuel Savings *	Household Income	Annual Savings as % of income	Weatherization Expenditures on household**	Payback in years
001554	25.4%	$1541.68	$524.92				
792007	29.2%	1788.19	737.50	$6,542	11.3%	$647.65	0.88 yrs
792011	10.3%	1386.33	159.18	7,300	2.2%	647.65	4.07 yrs
792014	9.2%	1114.22	112.89	10,800	1.0%	647.65	5.74 yrs
001547	15.1%	2205.13	392.20				
001533	9.2%	1653.41	167.52				
001548							
001545							
792010							
792419	1.7%	898.43	15.37	4,382	0.4%	1198.00	77.9 yrs
001541	7.6%	1381.44	113.62				
001531	19.4%	852.02	205.08				
001556	19.8%	1237.63	305.55				
001549	15.5%	1526.11	279.93				

** Includes freight costs plus $190 labor (2 men 8 hours, per house, on average).

* 1980 Fuel Costs include savings from Weatherization. Savings were determined by calculating 1980 costs without weatherization as follows: 1980 fuel costs (a) ÷ (1-% savings (1-b)) = fuel costs without weatherization (c). That amount (c) times % savings (b) = savings due to weatherization = s. or, $s = \frac{a}{(1-b)}(b)$.

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce Date: 1 March, 1982

Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

Public hearing or committee meeting on:

COMMITTEE CALENDAR

SB 665 (bill number) "An act making a supplemental appropriation to the Department of Commerce and Economic Dev for the low income weatherization program; and providing for an effective date." (bill title)

(bill number) (bill title)

WITNESS REGISTER

Witness Name: Mr. Terry Pegues
Affiliation: Southeast Alaska Community Action Program
Address: Box 490, Juneau, Alaska
Phone:
Summarized Position Statement: Testified in support of the legislation explaining the need for supplemental funding for weatherization program.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Senator Rodey
Action: Passed or Failed: Bill was moved with individual recommendations
Voting Record: 3 do pass

ACTION NARRATIVE

Tape Recording Number 0000: Chair opens at 004 with members 3 present etc.

Testimony begins at tape reading 138 and continues through 187.

SB

668

court shall order the parties to proceed with arbitration, but if the opposing party denies the existence of the agreement to arbitrate, the court shall proceed summarily to the determination of the issue and if the agreement is found to exist shall order arbitration.

(b) On application, the court may stay an arbitration proceeding commenced or threatened on a showing that there is no agreement to arbitrate. The issue, when in substantial and bona fide dispute, shall be immediately and summarily tried and the stay ordered if no agreement is found to exist. If found for the opposing party, the court shall order the parties to proceed to arbitration.

(c) If an issue subject to arbitration under the alleged agreement is involved in an action or proceeding pending in a court having jurisdiction to hear applications under (a) of this section, the application shall be made in that court. Otherwise the application may be made in any court of competent jurisdiction.

(d) An action or proceeding involving an issue subject to arbitration shall be stayed if an order for arbitration or an application for the order has been made under this section or, if the issue is severable, the stay may be with respect to the issue only.

(e) An order for arbitration may not be refused on the ground that the claim in issue lacks merit or because a fault or ground for the claims sought to be arbitrated has not been shown. (§ 1 ch 232 SLA 1968)

Sec. 09.43.030. Appointment of arbitrators by court. If the arbitration agreement provides a method of appointment of arbitrators, this method shall be followed. If no method of appointment is provided, or if the agreed method fails or for any reason cannot be followed, or when before the hearing an arbitrator appointed fails or is unable to act and his successor has not been appointed, the court on application of a party shall appoint one or more arbitrators. An arbitrator so appointed has all the powers of one specifically named in the agreement. (§ 1 ch 232 SLA 1968)

Sec. 09.43.040. Majority action by arbitrators. The powers of the arbitrators may be exercised by a majority unless otherwise provided by the agreement or by this chapter. (§ 1 ch 232 SLA 1968)

Sec. 09.43.050. Hearing. Unless otherwise provided by the agreement.

(1) the arbitrators shall set a time and place for the hearing and cause notification to the parties to be served personally or by registered mail not less than five days before the hearing; appearance at the hearing waives the notice; the arbitrators may adjourn the hearing from time to time as necessary and, on request of a party and for good cause or upon their own motion, may postpone

concerning grievances, terms, or conditions of employment or other mutual aid or protection in connection with employees. (§ 1 ch 108 SLA 1959; am § 32 ch 53 SLA 1973)

Collateral references. — 48 Am. Jur. 2d, Labor and Labor Relations, § 46.

51 C.J.S., Labor Relations, §§ 43-45. 56 C.J.S., Master and Servant, § 23(15).

Rights and remedies of workmen blacklisted by labor union. 46 ALR2d 1124.

Combination of separate plants or units of the same employer as single bargaining unit. 12 ALR3d 787.

Right of labor union to exclude applicants for membership and remedies of applicant so excluded. 33 ALR3d 1305.

Sec. 23.40.040. Collective bargaining agreement. The commissioner of public works or his authorized representative, in accordance with AS 23.40.020 — 23.40.030, may negotiate and enter into collective bargaining agreements concerning wages, hours, working conditions, and other employment benefits with the employees of the division of marine transportation engaged in operating the state ferry system as masters or members of the crews of vessels or their bargaining agent. No collective bargaining agreement is final without the concurrence of the commissioner of public works. The commissioner of public works may make provision in the collective bargaining agreement for the settlement of labor disputes by arbitration. (§ 1 ch 93 SLA 1962)

NOTES TO DECISIONS

This section was not repealed by implication by the enactment of the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Nor is it an exception to that act. — This section cannot be read as an implied exception to the Public Employment Relations Act, AS 23.40.070, et seq. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The Public Employment Relations Act, AS 23.40.070 et seq., was intended to incorporate existing collective bargaining agreements rather than exempt them. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Construed in pari materia. — Since this section cannot be treated as an implied exception to the Public Employment Relations Act, AS 23.40.070 et seq., and since the Public Employment Relations Act did not repeal this section by implication, the statutes are construed in pari materia. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

This section and Public Employment Relations Act can be harmonized. — The Public Employment Relations Act, AS 23.40.070, et seq., and this section can be effectively harmonized to further the legislative purpose of establishing uniform procedures for public employee collective bargaining and to protect the policies the legislature thought important in enacting the Public Employment Relations Act. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Any possible conflict between this section and the Public Employment Relations Act is neither severe nor irreconcilable, particularly in light of AS 23.40.240 which incorporates existing agreements. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

The most reasonable construction, consistent with the implied exception rule, is that the legislature was aware of this section and saw no inconsistency in enacting the Public Employment Relations Act, AS

Sec. 23.40.200. Classes of public employees; arbitration. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

NOTES TO DECISIONS

Applied in Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a pay plan designed to provide for a cost-of-living differential between the salaries paid employees residing in the state and employees residing outside the state. The plan shall provide that the salaries paid, as of August 26, 1977, to employees residing outside the state shall remain unchanged until the difference between those salaries and the salaries paid employees residing in the state reflects the difference between the cost of living in Alaska and living in Seattle, Washington. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972; am § 1 ch 62 SLA 1977)

Cross references. — As to applicability of this article to ferry personnel, see note following article 2 analysis.

Effect of amendments. — The 1977 amendment added the present third and fourth sentences.

Editor's notes. — Section 2, ch. 62, SLA 1977, provides: "This Act shall be implemented in the collective bargaining agreements which replace the collective bargaining agreements in effect or being negotiated as of the effective date of this Act."

Legislative history reports. — For report on ch. 62, SLA 1977 (HB 203), see 1977 House Journal, p. 461; 1977 Senate Journal Supplement No. 38.

NOTES TO DECISIONS

Applied in Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 23.40.212. Agreement with the Board of Regents. (a) The Board of Regents of the University of Alaska may delegate to the

JAY S. HAMMOND
GOVERNOR

SB 66 FI 1/19/82

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 19, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill providing for the resolution of impasses in public employee collective bargaining. The bill provides for public participation in the process of impasse resolution through an arbitration board which includes four members of the public who reside in various areas of the state. I expect that this method of impasse resolution will ensure that the terms and conditions of public employment are more consistent with the terms and conditions generally prevailing throughout the state. The bill applies to all public employers who have not elected to opt out of the Public Employment Relations Act (PERA) (AS 23.040.070 -- 23.40.260).

Amended AS 23.40.200 (sec. 1 of the bill) provides that when a public employer and an employee organization reach an impasse in bargaining, the parties shall submit to fact-finding. Under new AS 23.40.201 (sec. 2 of the bill), a neutral person will be selected by the parties to conduct the fact-finding. The factfinder will conduct an investigation and submit recommendations to the parties after considering certain factors. The parties will discuss the factfinder's report and attempt to reach an agreement. If there is still an impasse after fact-finding is employed, AS 23.40.200 provides that the dispute will be submitted to an arbitration board, appointed by the Labor Relations Agency, which consists of one professional arbitrator and four public members chosen from a standing panel (AS 23-.40.202 in sec. 2 of the bill). The arbitration board will choose between the final proposal of each party.

Under AS 23.40.202, the standing panel will include persons with substantial length of Alaskan residence, who have broad and varied personal experience in human affairs, and who are not employed in a position requiring participation in labor-management relations. The panel will include residents of each state judicial district. Each arbitration board chosen from the panel for state employee impasses will include residents of at least three of the four state judicial districts.

Under AS 23.40.202(d), the public members of the board will be compensated with per diem and travel allowance applicable to all state boards and commissions. The professional arbitrator will be paid a reasonable fee for such professional services. These expenses will be shared by the parties.

Section 3 of the bill repeals AS 23.40.040, which allowed bargaining with ferry system personnel before the enactment of the Public Employment Relations Act (PERA). The decision in IBU v. Hafling, 585 P.2d 870 (Alaska 1978), held that the PERA applies to ferry personnel. That decision made AS 23.40.040 redundant and unnecessary.

Sincerely,

Jay S. Hammond
Governor

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No. 668
Title "An Act relating to the resolution of impass in public employees . . ."
Requested by Rules Committee Date 1/7/82

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Labor Standards and Safety
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		1.9	2.1	2.3	2.5	2.8
300 CONTRACTUAL		3.5	3.9	4.2	4.7	5.1
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS,CLAIMS,ETC.		0	0	0	0	0
TOTAL		5.4	6.0	6.5	7.2	7.9

FUNDING (Thousands of Dollars)

GENERAL FUND		5.4	6.0	6.5	7.2	7.9
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		0	0	0	0	0
PART TIME						
TEMPORARY						

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

Travel for election monitoring
air fare = 1,000.00 (2 trips @ $500.00)
per diem = 900.00 (10 days x $90.00/day)

Contractual 3,500.00
(includes word processing
support for arbitration board, printing of ballots and legal fees.)

Inflation factor 10%

Fiscal note is based on the assumption that the costs for fact finding, arbitrator and arbitration panel is not the responsibility of the Department of Labor.

As the Labor Relations agency for political subdivisions of the state.

IV. DATE 1/7/82 PREPARED BY Judy Knight
AGENCY Labor
PHONE 465-2700

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 668
Title An Act Relating to the Resolution of Impasses in Public Employees Collective
Requested by The Rules Committee by Request of the Governor Date Bargain

II. FISCAL DETAIL
Agency Affected Department of Administration
Program Category Affected Labor Services
BRU, Program, Or Subprogram(s) Affected Division of Labor Relations & Labor
(Note: If more than one budget component is affected, separate line-item Relations
amounts and funding for each component in the analysis section.) Agency.

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL		2.0	2.2	2.4	2.7	2.9
300 CONTRACTUAL		14.0	15.4	16.9	18.6	20.5
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	16.0	17.6	19.3	21.5	23.4

FUNDING (Thousands of Dollars)

GENERAL FUND	0	16.0	17.6	19.3	21.5	23.4
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

Fiscal Note assumed one labor contract negotiating session ending in arbitration each year. Costs are primarily professional fees for a Fact-Finder and one Professional Aribtrator. Travel and per diem costs are primarily due to the conduct of hearings by the Fact-Finder and the Professional Arbitrator. It should be noted that the Professional Arbitrator's costs are shared with the labor organization.

IV. DATE January 8, 1982 PREPARED BY Kenneth Ryals
AGENCY Division of Administrative Services
Original: Legislative Finance PHONE 465-2277
Budget and Management

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for Senate Bill 668 (HESS)

Title "An Act relating to public employees collective bargaining"

Requested by Senate Health, Education and Social Services Committee Date April 2, 1982

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Public Protection

BRU, Program, or Subprogram(s) Affected Wage and Hour

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		87.0	95.7	105.3	115.8	127.4
200 TRAVEL		22.9	25.2	27.7	30.5	33.5
300 CONTRACTUAL		43.0	47.3	52.0	57.2	63.0
400 COMMODITIES		3.5	3.9	4.2	4.7	5.2
500 EQUIPMENT		2.6	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	159.0	172.1	189.2	208.2	229.1

FUNDING (Thousands of Dollars)

GENERAL FUND	0	159.0	172.1	189.2	208.2	229.1
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		2.0	2.0	2.0	2.0	2.0
PART TIME						
TEMPORARY						

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

This fiscal note includes all amounts on the original fiscal note for SB 668.

Other states which have enacted PERA type laws that cover teachers have advised us that during the first few years the laws were in effect, management or employee representatives of 50% of the affected school districts filed unfair labor practice charges each year which resulted in hearings before the labor relations agency. The average hearing lasted six hours (or one day).

Assuming that the contracts of approximately 26 of Alaska's 52 school districts come up for renegotiation each year and that our experience would be comparable to that of other states, we can expect that 13 of the school districts will generate unfair labor practice charges requiring hearing before the labor relations agency. (Continued)

IV. DATE April 2, 1982 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-27[illegible]

Original: Legislative Finance

cc: Budget and Management

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Wage and Hour Investigator II			18A	G	Anchorage	Gov.		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	Lic.		
2	PFT	12	CS SB 668						

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 2838/month	34,056	
5	BENEFITS .1592	5,422	
6	SBS	2,088	
7	FIXED BENEFITS	1,920	
8	TOTAL PERSONAL SERVICES 01		43,486
9	TRAVEL 02		8,640
10	CONTRACTUAL 03		10,150
11	COMMODITIES 04		1,750
12	EQUIPMENT 05		1,300
13	OTHER		
14	TOTAL COST		65,326

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	65,326
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR O&M USE ONLY

AA KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings.

Personal Services calculations are based on the salary schedule effective 3/16/82.

Travel funds allow for 12 - 4 day trips costing an average of $400 @ for transportation and per diem of $320 (4 days X $80)

Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of $3,900, and $3,200 for space rent.

The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.

AGENCY Labor PROGRAM Worker Protection

BRU Wage and Hour Administration

COMPONENT Wage and Hour Adminsitration

13 REQUEST FOR NEW POSITION

Page 2 of 2 REVISED DATE

FY 83

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION		APPROV.	DISAPP.
1	Wage and Hour Investigator II			18A	6	Anchorage	BOV		
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE			
2	PFT	12	CS SB 668	Not assigned			LBC		

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 2838/month	34,056	
5	BENEFITS .1592	5,422	
6	SBS	2,088	
7	FIXED BENEFITS	1,920	
8	TOTAL PERSONAL SERVICES	01	43,486
9	TRAVEL	02	8,640
10	CONTRACTUAL	03	10,150
11	COMMODITIES	04	1,750
12	EQUIPMENT	05	1,300
13	OTHER		
14	TOTAL COST		65,326

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	65,326
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

BA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

This position will conduct investigations and informal hearings of unfair labor practices complaints filed with this agency. The Investigator will travel extensively throughout the state performing these investigations and hearings.

Personal Services calculations are based on the salary schedule effective 3/16/82.

Travel funds allow for 12 - 4 day trips costing an average of $400 @ for transportation and per diem of $320 (4 days X $80)

Contractual services costs are comprised of telephone charges, equipment rent, word processing costs, management services support of $3,900, and $3,200 for space rent.

The equipment costs for a desk, file, recorder, transcriber, partitions, and bookcase are one-time charges.

AGENCY Labor PROGRAM Worker Protection

BRU Wage and Hour Administration

COMPONENT Wage and Hour Adminsitration

13 REQUEST FOR NEW POSITION

Page 1 of 2 REVISED DATE _____

FY 83

The Legislature of the State of Alaska
Twelfth Legislature
Fiscal Note
Bill/Resolution No. CS SB 668 (HESS)

III. Analysis (Continuation)

In addition to the charges associated with the two Wage and Hour Investigators are costs to contract for a hearing officer on 13 occasions ($9,750) and court reporting services including transcripts ($5,325), plus printing ($1,600) and legal costs ($6,000). A total of $5,600 has been included in travel for the hearing officer's transportation and per diem (10 trips of 2 days each = (400 + 80 [2]) 10 = 5,600).

Assumes an inflation rate of 10% per annum.

Assumes an effective date of July 1, 1982.

SB

669

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 1, 1982

Honorable Bob Mulcahy, Chairman
Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

This is in response to your recent request by telephone for information regarding SB 670.

SB 670 requests a supplemental appropriation to fund various salary increases for FY 82.

Section 1 of the bill reflects the cost of the increases for the General Government Bargaining Unit. This unit is composed of approximately 7,000 clerical, technical, and professional nonsupervisory employees represented by the Alaska Public Employees Association. Negotiations for this settlement began in August 1981 pursuant to the current (1980-1982) labor agreement which provided for a reopener on wages and the legal trust fund for CY 1982. Good faith negotiations for the third year settlement resulted in an agreement to continue contributions to the legal trust fund at the current rate and provide for a general increase equaling approximately 7 percent. The increases to individual salary ranges were not universal but ran from a maximum of 7.5 percent to a minimum of 4.8 percent. This was a continuation of the trend established in 1980 (pursuant to legislative intent)) to discontinue the use of across-the-board percentage increases. Resultantly, the increases to the unit for the three year period run from the highest cumulative increase for the lowest paid employees to the lowest cumulative increase for the highest paid employees.

I have attached a copy of the letter of agreement closing out this reopener and a copy of the salary schedule showing distribution of percentage increases for 1982.

Section 2 reflects the costs of the increases to the Supervisory Unit. This unit of approximately 950 employees, began working a forty hour workweek in 1980 pursuant to the terms of the current labor agreement. That agreement also provided for reopening negotiations on wages and the forty hour workweek. Negotiations with APEA began in August 1981 and resulted in the continuation of the forty hour workweek and increases at each range and step identical to those of the General Government Unit.

The result of this three year agreement also reflects a smaller overall percentage increase for the higher paid employees.

A copy of the agreement reached is attached.

Both agreements have an effective date of March 16, 1982 for the increased salary and provide for a compensatory payment for the period January 1-March 15 based on the monthly wage on March 15, 1982 - this payment is equal to 15 percent of that monthly wage.

The remaining sections of the bill represent costs of projecting the new General Government salary schedule to all other State employees who do not bargain with their employer but who are tied in some way to the salary schedule at 29.27.011(a) (See SB 669).

I might parenthetically note that we have subsequent to the introduction of this bill reached the same agreement with the Confidential Bargaining Unit.

It is my belief that the Division of Budget and Management is in process of providing you with material in further explanation of the bill.

I hope the above information will assist in the passage of these bills. We believe that the settlements reached in the wage negotiations are equitable, were bargained in good faith and are worthy of support.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
Attachments

LETTER OF AGREEMENT
BETWEEN
APEA SUPERVISORY UNIT
AND
THE STATE OF ALASKA

The following provisions represent the agreement between the parties, ~~subject to members ratification~~, regarding the Article 35 reopener on Wage Schedule and hours of work.

1. It is agreed and understood between the parties that Article 1, Section 2(1) --"work week" shall be expanded in meaning to allow maximum flexibility in the administration and scheduling of the forty-hour week to the extent that the required hours over 37.5 in each work week may be scheduled through a variety of methods so long as the minimum weekly 2-1/2 hours are satisfied within each pay period.

   Leave will continue to be accrued and charged on the basis of eight hour days.

   The work week modifications shall become effective January 16, 1982.

2. Article 20: Wages

   Section 1: Monthly Salary Schedule

   The following shall be the schedule of wages for Bargaining Unit Members on the effective date of those schedules. The schedules shall exclude those employees whose salary has been frozen in accordance with Personnel Rule 9 02.152 effective June 1980. Salary rates for those employees shall be in accordance with Personnel Rule 9 02.1523 effective June 1980.

   (c) The 1981 salary schedule of the current contract shall be modified to reflect the changes shown in the attached schedule and shall become effective March 16, 1982.

These Bargaining Unit members on the payroll of the employer on March 15, 1982 shall receive a one-time compensatory payment of 15% of his/her base monthly salary in effect on March 15, 1982. Such payment shall be made on March 16, 1982, or within 30 days from the time appropriated monies become available, whichever is later.

A.P.E.A.

A.P.E.A.

A.P.E.A.

A.P.E.A.

December 2, 1981
Date

STATE OF ALASKA

1/11/82
Date

	1615	1655	1712	1756	1823	1874	1932	1989	2055	2119
	1712	1756	1823	1874	1932	1989	2055	2119	2192	2266
	1823	1874	1932	1989	2055	2119	2192	2266	2345	2430
	1932	1989	2055	2119	2192	2266	2345	2430	2514	2609
	2055	2119	2192	2266	2345	2430	2514	2609	2693	2794
	2192	2266	2345	2430	2514	2609	2693	2794	2894	2998
	2345	2430	2514	2609	2693	2794	2894	2998	3099	3205
	2514	2609	2693	2794	2894	2998	3099	3205	3309	3431
	2693	2794	2894	2998	3099	3205	3309	3431	3537	3668
	2894	2998	3099	3205	3309	3431	3537	3668	3779	3917
	3099	3205	3309	3431	3537	3668	3779	3917	4038	4183
	3309	3431	3537	3668	3779	3917	4038	4183	4320	4477
	3537	3668	3779	3917	4038	4183	4320	4477	4625	4797
	3779	3917	4038	4183	4320	4477	4625	4797	4958	5124
	4038	4183	4320	4477	4625	4797	4958	5124	5311	5509
	4320	4477	4625	4797	4958	5124	5311	5509	5706	5921
	4625	4797	4958	5124	5311	5509	5706	5921	6127	6339
	4797	4958	5124	5311	5509	5706	5921	6127	6339	6562
	4958	5124	5311	5509	5706	5921	6127	6339	6562	6791

1982 Salary Schedule

Effective March 16, 1982

	A	B				F	J	K	L	M
5.	1258	1292			1407	1445	1487	1530	1578	1627
		6.5%								
6.	1330	1367	1408	1445	1487	1530	1578	1627	1673	1726
			6.75%							
7.	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
						7.0%				
8.	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
9.	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10.	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
			7.25%							
11.	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12.	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13.	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
					7.5%					
14.	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15.	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16.	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17.	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18.	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19.	3041	7.2% 3146	3249	3371	3475	3605	3714	3851	3971	4115
20.	3249	6.9% 3371	3475	3605	3714	3851	3971	4115	4251	4408
21.	3475	6.6% 3605	3714	3851	3971	4115	4251	4408	4554	4725
22.	3714	6.3% 3851	3971	4115	4251	4408	4554	4725	4885	5050
23.	3971	6.0% 4115	4251	4408	4554	4725	4885	5050	5236	5433
24.	4251	5.7% 4408	4554	4725	4885	5050	5236	5433	5629	5843
25.	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
	5.4%				4.8%					
26.	4725	4885	5050	5236	5433	5629	5843	6047	6259	6480
27.	4885	5050	5236	5433	5629	5843	6047	6259	6480	6719

*Note: This salary schedule does not reflect geographic differential.

LETTER OF UNDERSTANDING
BETWEEN THE
STATE OF ALASKA
AND THE
ALASKA PUBLIC EMPLOYEES ASSOCIATION
REPRESENTING THE
GENERAL GOVERNMENT UNIT

It is hereby agreed and understood between the parties that this Letter of Understanding fully satisfies the reopener addressed in Article 42, Section 3.

1. The following shall be incorporated as Article 24, Section 1(e).

(e) The following schedule of wages shall become effective March 16, 1982 for all Bargaining Unit Members who are not on frozen salary.

	A	B	C	D	E	F	J	K	L	M
05	1258	1292	1330	1367	1408	1445	1487	1530	1578	1627
06	1330	1367	1403	1445	1487	1530	1578	1627	1673	1726
07	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
08	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
09	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
11	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
14	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19	3041	3146	3249	3371	3475	3605	3714	3851	3971	4115
20	3249	3371	3475	3605	3714	3851	3971	4115	4251	4408

	A	B	C	D	E	F	J	K	L	M
21	3475	3605	3714	3851	3971	4115	4251	4408	4554	4725
22	3714	3851	3971	4115	4251	4408	4554	4725	4885	5050
23	3971	4115	4251	4408	4554	4725	4885	5050	5236	5433
24	4251	4408	4554	4725	4885	5050	5236	5433	5629	5843
25	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
26	4725	4885	5050	5236	5433	5629	5843	6047	6259	6480
27	4885	5050	5236	5433	5629	5843	6047	6259	6480	6719

2. The following shall be incorporated as Article 24, Section 1(f).

(f) A compensatory payment will be paid to employees who are in the Bargaining Unit on March 15, 1982. Such payment will be equal to fifteen (15%) percent of said employee's monthly wage on March 15, 1982. Said monthly wage will be determined from the appropriate salary schedule in effect on March 15, 1982. Such payment shall be paid within thirty (30) days after March 15, 1982, or within thirty (30) days from the time the monies are appropriated by the Legislature and they become available, whichever is later.

3. The current wage table appearing at Article 24, Section 1(b) will remain in effect through March 15, 1982.

4. Article 39 of the current Agreement shall continue as currently in effect until December 31, 1982.

Signed this 19th day of JANUARY, 1982 at Juneau, Alaska.

For the State of Alaska:

H. R. Hudson, Commissioner
Department of Administration

Bruce I. Ludwig, Spokesman

For the Alaska Public Employees' Association:

Cherie Shelley, Executive Director

John E. Casperson, Spokesman

LETTER OF AGREEMENT
BETWEEN
APEA SUPERVISORY UNIT
AND
THE STATE OF ALASKA

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   Leave will continue to be accrued and charged on the basis of eight hour days.

   The work week modifications shall become effective January 16, 1982.

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Those Bargaining Unit members on the payroll of the employer on March 15, 1982 shall receive a one-time compensatory payment of 15% of his/her base monthly salary in effect on March 15, 1982. Such payment shall be made on March 16, 1982, or within 30 days from the time appropriated monies become available, whichever is later.

Diana Shilling
A.P.E.A.

A.P.E.A.

A.P.E.A.

A.P.E.A.

December 2, 1981
Date

STATE OF ALASKA

1/11/82
Date

JAN 26 1982

LETTER OF UNDERSTANDING
BETWEEN THE
STATE OF ALASKA
AND THE
ALASKA PUBLIC EMPLOYEES ASSOCIATION
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(e) The following schedule of wages shall become effective March 16, 1982 for all Bargaining Unit Members who are not on frozen salary.

	A	B	C	D	E	F	J	K	L	M
05	1253	1292	1330	1367	1408	1445	1487	1530	1578	1627
06	1330	1367	1408	1445	1487	1530	1578	1627	1673	1726
07	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
08	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
09	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
11	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
14	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19	3041	3146	3249	3371	3475	3605	3714	3851	3971	4115
20	3249	3371	3475	3605	3714	3851	3971	4115	4251	4408

	A	B	C	D	E	F	J	K	L	M
21	3475	3605	3714	3851	3971	4115	4251	4408	4554	4725
22	3714	3851	3971	4115	4251	4408	4554	4725	4885	5050
23	3971	4115	4251	4408	4554	4725	4885	5050	5236	5433
24	4251	4408	4554	4725	4885	5050	5236	5433	5629	5843
25	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
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For the State of Alaska:

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For the Alaska Public Employees' Association:

Cherie Shelley, Executive Director

John E. Casperson, Spokesman

Karen F. Clark, Negotiator

Fran M. Podmolik, Negotiator

Ron Bedard, Southeastern Negotiator

Richard Peterson, Southcentral Negotiator

Shirley Herning, Northern Negotiator

Sec. 39.26.020. Application of provisions. The provisions of AS 39.26.010 and 39.26.015 apply to those state employees in the classified and partially exempt services. (§ 1 ch 102 SLA 1971; am § 2 ch 13 SLA 1976)

Chapter 27. Pay Plan for State Employees.

Section
10. [Repealed]
11. Salary schedule
12. Temporary salary schedules
15. [Repealed]
20. Pay step differentials by election district and in other states
22. Pay increments for longevity in state service
25. Swing and graveyard shift differentials
30. Annual salary survey
35. Preparation and submission of pay schedules
40. University salary survey
45. Definitions

Sec. 39.27.010. Basic salary schedule.

Repealed by § 12 ch 80 SLA 1978.

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 39.27.011.

Editor's note. — The repealed section derived from § 1, ch. 127, SLA 1962; § 1, ch. 112, SLA 1965; § 3, ch. 123, SLA 1967; § 7, ch. 101, SLA 1969; § 7, ch. 193, SLA 1970; § 1, ch. 87, SLA 1971; § 1, ch. 47, SLA 1974; § 1, ch. 138, SLA 1975.

REPEALED & RE-ENACTED

Sec. 39.27.011. Salary schedule.

(a) **[Effective until January 1, 1981]** The following monthly basic salary schedule is approved as the pay plan for classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of the Public Employment Relations Act:

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
05	1,075	1,106	1,140	1,173	1,207	1,240
06	1,140	1,173	1,207	1,240	1,277	1,315
07	1,207	1,240	1,277	1,315	1,355	1,399
08	1,277	1,315	1,355	1,399	1,440	1,487
09	1,355	1,399	1,440	1,487	1,533	1,577
10	1,440	1,487	1,533	1,577	1,628	1,678
11	1,533	1,577	1,628	1,678	1,731	1,787
12	1,628	1,678	1,731	1,787	1,850	1,915
13	1,731	1,787	1,850	1,915	1,984	2,058
14	1,850	1,915	1,984	2,058	2,132	2,215
15	1,984	2,058	2,132	2,215	2,289	2,377
16	2,132	2,215	2,289	2,377	2,465	2,556
17	2,289	2,377	2,465	2,556	2,652	2,746
18	2,465	2,556	2,652	2,746	2,845	2,953

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
19	2,652	2,746	2,845	2,953	3,055	3,171
20	2,845	2,953	3,055	3,171	3,278	3,401
21	3,055	3,171	3,278	3,401	3,518	3,648
22	3,278	3,401	3,518	3,648	3,781	3,922
23	3,518	3,648	3,781	3,922	4,066	4,220
24	3,781	3,922	4,066	4,220	4,377	4,540
25	4,066	4,220	4,377	4,540	4,709	4,888
26	4,220	4,377	4,540	4,709	4,888	5,066
27	4,377	4,540	4,709	4,888	5,066	5,260
28	4,540	4,709	4,888	5,066	5,260	5,446
29	4,709	4,888	5,066	5,260	5,446	5,638
30	4,888	5,066	5,260	5,446	5,638	5,839

[**Effective January 1, 1981**] The following monthly basic salary schedule is approved as the pay plan for classified and partially exempt employees in the executive branch of the state government who are not members of a collective bargaining unit established under the authority of the Public Employment Relations Act:

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
05	1,181	1,213	1,249	1,284	1,319	1,354
06	1,249	1,284	1,319	1,354	1,393	1,433
07	1,319	1,354	1,393	1,433	1,475	1,521
08	1,393	1,433	1,475	1,521	1,564	1,613
09	1,475	1,521	1,564	1,613	1,662	1,708
10	1,564	1,613	1,662	1,708	1,761	1,814
11	1,662	1,708	1,761	1,814	1,870	1,928
12	1,761	1,814	1,870	1,928	1,995	2,063
13	1,870	1,928	1,995	2,063	2,135	2,213
14	1,995	2,063	2,135	2,213	2,291	2,378
15	2,135	2,213	2,291	2,378	2,455	2,548
16	2,291	2,378	2,455	2,548	2,640	2,736
17	2,455	2,548	2,640	2,736	2,837	2,935
18	2,640	2,736	2,837	2,935	3,039	3,153
19	2,837	2,935	3,039	3,153	3,260	3,382
20	3,039	3,153	3,260	3,382	3,494	3,623
21	3,260	3,382	3,494	3,623	3,746	3,882
22	3,494	3,623	3,746	3,882	4,022	4,170
23	3,746	3,882	4,022	4,170	4,321	4,483
24	4,022	4,170	4,321	4,483	4,648	4,819
25	4,321	4,483	4,648	4,819	4,996	5,184
26	4,483	4,648	4,819	4,996	5,184	5,371
27	4,648	4,819	4,996	5,184	5,371	5,575
28	4,819	4,996	5,184	5,371	5,575	5,770

Range No.	Step A	Step B	Step C	Step D	Step E	Step F
29	4,996	5,184	5,371	5,575	5,770	5,972
30	5,184	5,371	5,575	5,770	5,972	6,183

(b) Repealed by § 38 ch. 3 SLA 1980.

(c) If a state officer or employee is appointed a deputy department head or a division director and, at the time of appointment, the officer or employee is receiving a salary higher than that set for the position to which he is appointed, he is entitled to continue receiving the higher salary. This subsection does not apply to the salary of a person appointed to a position other than a deputy department head or a division director. (§ 12 ch 148 SLA 1976; am § 1 ch 92 SLA 1977; am §§ 1, 10 ch 80 SLA 1978; am §§ 1, 16, 30, 31, 38 ch 3 SLA 1980)

Cross reference. — As to the Public Employment Relations Act, see AS 23.40.070 — 23.40.260.

Effect of amendments. — The 1977 amendment and retroactive to January 1, 1977, rewrote subsection (a).

The 1978 amendment deleted "Notwithstanding § 10 of this chapter" from the beginning of subsection (a), increased the salaries in the schedule in subsection (a), and deleted "the Alaska Transportation Commission" following "Alaska Public Utilities Commission" in former subsection (b). Section 13, ch. 80, SLA 1978, provides in part that "the cost-of-living adjustments made in sec. 1 of this Act are retroactive to January 1, 1978 for the classified and partially exempt employees of the executive branch and for those employees specified in secs. 2 and 3 of this Act."

Sections 1, 16, and 30, ch. 3, SLA 1980, all rewrote subsection (a). Section 1 of ch. 3 is retroactive to January 1, 1979 and applied to calendar year 1979; section 16 of ch. 3 is retroactive to January 1, 1980, and applies to calendar year 1980; and § 30 of ch. 3 is effective January 1, 1981. Sections 31 and 38 of ch. 3 repealed subsection (b) and added subsection (c).

Editor's note. — Section 34, ch. 3, SLA 1980, provides: "EMPLOYEES OF THE JUDICIAL AND LEGISLATIVE BRANCHES. It is the intent of the legislature that the permanent and temporary employees of the judicial branch (other than justices and judges) and the permanent employees of the legislative branch receive salary adjustments comparable to those received by the classified and partially exempt employees of the executive branch under AS 39.27.011(a) as that section is re-enacted in secs. 1, 16 and 30 of this Act."

Section 35, ch. 3, SLA 1980, provides: "EMPLOYEES OF THE UNIVERSITY OF ALASKA. In determining compensation for employees of the University of Alaska under AS 14.40.170(2), it is the intent of the legislature that the Board of Regents amend the salary schedules for employees of the university who are not covered by collective bargaining agreements

"(1) to increase salaries by approximately seven per cent, retroactive to January 1, 1979; and

"(2) to increase salaries by an average of an additional 10 per cent, effective January 1, 1980."

Section 36, ch. 3, SLA 1980, provides: "This Act may not be applied to reduce the compensation of a person during his tenure in the office or position he holds on the effective date of this Act."

Sec. 39.27.012. Temporary salary schedules. The director of personnel may establish salary schedules providing lesser amounts than those in the basic salary schedule in order to meet salary limit requirements for receipt and expenditure of federal funds. No salary rates established under authority of this section affect the salaries of employees provided for by a collective bargaining agreement negotiated under the authority of the Public Employment Relations Act (AS 23.40.070 — 23.40.260). (§ 2 ch 138 SLA 1975)

Sec. 39.20.010. Monthly salary of governor. The monthly salary of the governor is equal to Step F, Range 30 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 1 ch 39 SLA 1959; am § 1 ch 115 SLA 1965; am § 4 ch 101 SLA 1969; am § 4 ch 193 SLA 1970; am § 5 ch 34 SLA 1974; am § 7 ch 148 SLA 1976; am § 9 ch 263 SLA 1976; am § 6 ch 3 SLA 1980; am § 21 ch 3 SLA 1980)

Effect of amendments. — The first 1976 amendment deleted the former second sentence, which read "The salary shall be paid in equal monthly installments."

The second 1976 amendment rewrote the section.

Section 6, ch. 3, SLA 1980, retroactive to January 1, 1979, and applicable to calendar year 1979, substituted "The annual salary of the governor is $65,000, payable monthly in 12 equal installments" for "The annual salary of the governor shall be prescribed in accordance with AS 39.23." Section 21 of ch. 3, retroactive to January 1, 1980, substituted "The monthly salary of the governor is equal to Step F, Range 30 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska," for the language substituted by § 6 of ch. 3.

Am. Jur. 2d reference. — 63 Am. Jur. 2d, Public Officers and Employees, §§ 5, 360-413.

Sec. 39.20.020. Date of entitlement of governor's salary. The governor is entitled to receive the annual salary established for his office effective from the date on which he takes his oath of office. (§ 2 ch 39 SLA 1959)

Sec. 39.20.030. Monthly salary of lieutenant governor. The monthly salary of the lieutenant governor is equal to Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska. (§ 1 ch 40 SLA 1959; am § 2 ch 115 SLA 1965; am § 1 ch 123 SLA 1967; am § 5 ch 101 SLA 1969; am § 5 ch 193 SLA 1970; am § 6 ch 34 SLA 1974; am § 8 ch 148 SLA 1976; am § 10 ch 263 SLA 1976; am § 7 ch 3 SLA 1980; am § 22 ch 3 SLA 1980)

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

Effect of amendments. — The first 1976 amendment deleted the former second sentence, which read "The salary shall be paid in equal monthly installments."

The second 1976 amendment rewrote the section.

Section 7, ch. 3, SLA 1980, retroactive to January 1, 1979, and applicable to calendar year 1979, substituted "The annual salary of the lieutenant governor is $58,500 payable monthly in 12 equal installments" for the former provisions of this section, which read: "The annual salary of the lieutenant governor shall be prescribed in accordance with AS 39.23." Section 22 of ch. 3, retroactive to January 1, 1980, substituted "The monthly salary of the lieutenant governor is equal to Step F, Range 28 of the salary schedule in AS 39.27.011(a) for Juneau, Alaska" for the language substituted by § 7 of ch. 3.

Sec. 39.20.040. Date of entitlement of lieutenant governor's salary. The lieutenant governor is entitled to receive the annual

SB

670

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

MEMORANDUM

FROM: Cherie Shelley, Executive Director
Alaska Public Employees Association

DATE: January 21, 1982

APEA INFORMATIONAL FACT SHEET CONCERNING SB 670 and HB 685

APEA's concerns are addressed solely in Sections 1 and 2. Cost-of-living salary increases (7.0 average) negotiated for the general government and supervisory unit contracts total $8,959,000.

Sections 3,4,5 and 6 deal with employees not covered by collective bargaining, judicial and public officers, legislators and permanent employees of the legislature.

Listed on the back are the salary ranges and the negotiated percentage increases.

SALARY RANGE	PERCENTAGE INCREASE	COMMENTS
5	6.5	Clerical aides - approx. 35 employees - high school students, etc.
6	6.5	
7	6.75	Clerical/Secy. - Range 8 salary is $17,800, as opposed to Legislative Range 15 equivalent position with a salary of $27,500.
8	6.75	
9	7.0	Majority of GGU employees fall in Range 13 - salary $24,120 as opposed to Alaska workers average salary of $29,000.
10	7.0	
11	7.25	
12	7.25	
13	7.5	
14	7.5	
15	7.5	
16	7.5	
17	7.5	
18	7.5	Majority of supervisory unit employees fall between Ranges 18 and 23. Their average increase is below the 7%, at approx. 6.7%.
19	7.2	
20	6.9	
21	6.6	
22	6.3	
23	6.0	
24	5.7	Increase for higher Ranges is below increases for lower ranges, averaging only approx. 5.2%.
25	5.4	
26	5.1	
27	4.8	

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF ADMINISTRATION

OFFICE OF THE COMMISSIONER

POUCH C
JUNEAU, ALASKA 99811

465-2200

March 1, 1982

Honorable Bob Mulcahy, Chairman
Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

This is in response to your recent request by telephone for information regarding SB 670.

SB 670 requests a supplemental appropriation to fund various salary increases for FY 82.

Section 1 of the bill reflects the cost of the increases for the General Government Bargaining Unit. This unit is composed of approximately 7,000 clerical, technical, and professional nonsupervisory employees represented by the Alaska Public Employees Association. Negotiations for this settlement began in August 1981 pursuant to the current (1980-1982) labor agreement which provided for a reopener on wages and the legal trust fund for CY 1982. Good faith negotiations for the third year settlement resulted in an agreement to continue contributions to the legal trust fund at the current rate and provide for a general increase equaling approximately 7 percent. The increases to individual salary ranges were not universal but ran from a maximum of 7.5 percent to a minimum of 4.8 percent. This was a continuation of the trend established in 1980 (pursuant to legislative intent) to discontinue the use of across-the-board percentage increases. Resultantly, the increases to the unit for the three year period run from the highest cumulative increase for the lowest paid employees to the lowest cumulative increase for the highest paid employees.

I have attached a copy of the letter of agreement closing out this reopener and a copy of the salary schedule showing distribution of percentage increases for 1982.

02-89LH

Section 2 reflects the costs of the increases to the Supervisory Unit. This unit of approximately 950 employees, began working a forty hour workweek in 1980 pursuant to the terms of the current labor agreement. That agreement also provided for reopening negotiations on wages and the forty hour workweek. Negotiations with APEA began in August 1981 and resulted in the continuation of the forty hour workweek and increases at each range and step identical to those of the General Government Unit.

The result of this three year agreement also reflects a smaller overall percentage increase for the higher paid employees.

A copy of the agreement reached is attached.

Both agreements have an effective date of March 16, 1982 for the increased salary and provide for a compensatory payment for the period January 1-March 15 based on the monthly wage on March 15, 1982 - this payment is equal to 15 percent of that monthly wage.

The remaining sections of the bill represent costs of projecting the new General Government salary schedule to all other State employees who do not bargain with their employer but who are tied in some way to the salary schedule at AS 39.27.011(a) (See SB 669).

I might parenthetically note that we have subsequent to the introduction of this bill reached the same agreement with the Confidential Bargaining Unit.

It is my belief that the Division of Budget and Management is in process of providing you with material in further explanation of the bill.

I hope the above information will assist in the passage of these bills. We believe that the settlements reached in the wage negotiations are equitable, were bargained in good faith and are worthy of support.

Respectfully,

W. R. Hudson
Commissioner

WRH/mjc
Attachments

LETTER OF AGREEMENT
BETWEEN
APEA SUPERVISORY UNIT
AND
THE STATE OF ALASKA

The following provisions represent the agreement between the parties, ~~subject to members ratification~~, regarding the Article 35 reopener on Wage Schedule and hours of work.

1. It is agreed and understood between the parties that Article 1, Section 2(1) --"work week" shall be expanded in meaning to allow maximum flexibility in the administration and scheduling of the forty-hour week to the extent that the required hours over 37.5 in each work week may be scheduled through a variety of methods so long as the minimum weekly 2-1/2 hours are satisfied within each pay period.

   Leave will continue to be accrued and charged on the basis of eight hour days.

   The work week modifications shall become effective January 16, 1982.

2. Article 20: Wages

   Section 1: Monthly Salary Schedule

   The following shall be the schedule of wages for Bargaining Unit Members on the effective date of those schedules. The schedules shall exclude those employees whose salary has been frozen in accordance with Personnel Rule 9 02.152 effective June 1980. Salary rates for those employees shall be in accordance with Personnel Rule 9 02.1523 effective June 1980.

   (c) The 1981 salary schedule of the current contract shall be modified to reflect the changes shown in the attached schedule and shall become effective March 16, 1982.

Those Bargaining Unit members on the payroll of the employer on March 15, 1982 shall receive a one-time compensatory payment of 15% of his/her base monthly salary in effect on March 15, 1982. Such payment shall be made on March 16, 1982, or within 30 days from the time appropriated monies become available, whichever is later.

A.P.E.A.

A.P.E.A.

A.P.E.A.

A.P.E.A.

December 2, 1981
Date

STATE OF ALASKA

1/11/82
Date

	A	B	C	D	E	F	J	K	L	M
	1615	1655	1712	1756	1823	1874	1932	1989	2055	2119
0	1712	1756	1823	1874	1932	1989	2055	2119	2192	2266
1	1823	1874	1932	1989	2055	2119	2192	2266	2345	2430
2	1932	1989	2055	2119	2192	2266	2345	2430	2514	2609
3	2055	2119	2192	2266	2345	2430	2514	2609	2693	2794
4	2192	2266	2345	2430	2514	2609	2693	2794	2894	2998
5	2345	2430	2514	2609	2693	2794	2894	2998	3099	3205
6	2514	2609	2693	2794	2894	2998	3099	3205	3309	3431
7	2693	2794	2894	2998	3099	3205	3309	3431	3537	3668
8	2894	2998	3099	3205	3309	3431	3537	3668	3779	3917
9	3099	3205	3309	3431	3537	3668	3779	3917	4038	4183
0	3309	3431	3537	3668	3779	3917	4038	4183	4320	4477
1	3537	3668	3779	3917	4038	4183	4320	4477	4625	4797
2	3779	3917	4038	4183	4320	4477	4625	4797	4958	5124
3	4038	4183	4320	4477	4625	4797	4958	5124	5311	5509
4	4320	4477	4625	4797	4958	5124	5311	5509	5706	5921
5	4625	4797	4958	5124	5311	5509	5706	5921	6127	6339
6	4797	4958	5124	5311	5509	5706	5921	6127	6339	6562
7	4958	5124	5311	5509	5706	5921	6127	6339	6562	6791

1982 Salary Schedule

Effective March 16, 1982

	A	B	C	D	E	F	J	K	L	M
5.	1258	1292	1330	1367	140[illegible]	1445	1487	1530	1578	1627
		6.5%								
6.	1330	1367	1408	1445	1487	1530	1578	1627	1673	1726
			6.75%							
7.	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
					7.0%					
8.	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
9.	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10.	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
			7.25%							
11.	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12.	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13.	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
					7.5%					
14.	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15.	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16.	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17.	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18.	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19.	3041	7.2% 3146	3249	3371	3475	3605	3714	3851	3971	4115
20.	3249	6.9% 3371	3475	3605	3714	3851	3971	4115	4251	4408
21.	3475	6.6% 3605	3714	3851	3971	4115	4251	4408	4554	4725
22.	3714	6.3% 3851	3971	4115	4251	4408	4554	4725	4885	5050
23.	3971	6.0% 4115	4251	4408	4554	4725	4885	5050	5236	5433
24.	4251	5.7% 4408	4554	4725	4885	5050	5236	5433	5629	5843
25.	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
	5.4%				4.8%					
26.	4725	4885	5050	5236	5433	5629	5843	6047	6259	6480
27.	4885	5050	5236	5433	5629	5843	6047	6259	6480	6719

*Note: This salary schedule does not reflect geographic differential.

NOT FUNDED

LETTER OF UNDERSTANDING
BETWEEN THE
STATE OF ALASKA
AND THE
ALASKA PUBLIC EMPLOYEES ASSOCIATION
REPRESENTING THE
GENERAL GOVERNMENT UNIT

It is hereby agreed and understood between the parties that this Letter of Understanding fully satisfies the reopener addressed in Article 42, Section 3 .

1. The following shall be incorporated as Article 24, Section 1(e).

(e) The following schedule of wages shall become effective March 16, 1982 for all Bargaining Unit Members who are not on frozen salary.

	A	B	C	D	E	F	J	K	L	M
05	1258	1292	1330	1367	1408	1445	1487	1530	1578	1627
06	1330	1367	1408	1445	1487	1530	1578	1627	1673	1726
07	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
08	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
09	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
11	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
14	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19	3041	3146	3249	3371	3475	3605	3714	3851	3971	4115
20	3249	3371	3475	3605	3714	3851	3971	4115	4251	4408

	A	B	C	D	E	F	J	K	L	M
21	3475	3605	3714	3851	3971	4115	4251	4408	4554	4725
22	3714	3851	3971	4115	4251	4408	4554	4725	4885	5050
23	3971	4115	4251	4408	4554	4725	4885	5050	5236	5433
24	4251	4408	4554	4725	4885	5050	5236	5433	5629	5843
25	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
26	4725	4885	5050	5236	5433	5629	5843	6047	6259	6480
27	4885	5050	5236	5433	5629	5843	6047	6259	6480	6719

2. The following shall be incorporated as Article 24, Section 1(f).

(f) A compensatory payment will be paid to employees who are in the Bargaining Unit on March 15, 1982. Such payment will be equal to fifteen (15%) percent of said employee's monthly wage on March 15, 1982. Said monthly wage will be determined from the appropriate salary schedule in effect on March 15, 1982. Such payment shall be paid within thirty (30) days after March 15, 1982, or within thirty (30) days from the time the monies are appropriated by the Legislature and they become available, whichever is later.

3. The current wage table appearing at Article 24, Section 1(b) will remain in effect through March 15, 1982.

4. Article 39 of the current Agreement shall continue as currently in effect until December 31, 1982.

Signed this 19th day of JANUARY, 1982 at Juneau, Alaska.

For the State of Alaska:

W. R. Hudson, Commissioner
Department of Administration

Bruce I. Ludwig, Spokesman

For the Alaska Public Employees' Association:

Cherie Shelley, Executive Director

John E. Casperson, Spokesman

LETTER OF AGREEMENT
BETWEEN
APEA SUPERVISORY UNIT
AND
THE STATE OF ALASKA

The following provisions represent the agreement between the parties, ~~subject to members ratification~~, regarding the Article 35 reopener on Wage Schedule and hours of work.

1. It is agreed and understood between the parties that Article 1, Section 2(1) --"work week" shall be expanded in meaning to allow maximum flexibility in the administration and scheduling of the forty-hour week to the extent that the required hours over 37.5 in each work week may be scheduled through a variety of methods so long as the minimum weekly 2-1/2 hours are satisfied within each pay period.

   Leave will continue to be accrued and charged on the basis of eight hour days.

   The work week modifications shall become effective January 16, 1982.

2. Article 20: Wages

   Section 1: Monthly Salary Schedule

   The following shall be the schedule of wages for Bargaining Unit Members on the effective date of those schedules. The schedules shall exclude those employees whose salary has been frozen in accordance with Personnel Rule 9 02.152 effective June 1980. Salary rates for those employees shall be in accordance with Personnel Rule 9 02.1523 effective June 1980.

   (c) The 1981 salary schedule of the current contract shall be modified to reflect the changes shown in the attached schedule and shall become effective March 16, 1982.

Those Bargaining Unit members on the payroll of the employer on March 15, 1982 shall receive a one-time compensatory payment of 15% of his/her base monthly salary in effect on March 15, 1982. Such payment shall be made on March 16, 1982, or within 30 days from the time appropriated monies become available, whichever is later.

A.P.E.A.

A.P.E.A.

A.P.E.A.

A.P.E.A.

December 2, 1981
Date

STATE OF ALASKA

1/11/82
Date

JAN 26 1982

LETTER OF UNDERSTANDING
BETWEEN THE
STATE OF ALASKA
AND THE
ALASKA PUBLIC EMPLOYEES ASSOCIATION
REPRESENTING THE
GENERAL GOVERNMENT UNIT

It is hereby agreed and understood between the parties that this Letter of Understanding fully satisfies the reopener addressed in Article 42, Section 3 .

1. The following shall be incorporated as Article 24, Section 1(e).

(e) The following schedule of wages shall become effective March 16, 1982 for all Bargaining Unit Members who are not on frozen salary.

	A	B	C	D	E	F	J	K	L	M
05	1258	1292	1330	1367	1408	1445	1487	1530	1578	1627
06	1330	1367	1408	1445	1487	1530	1578	1627	1673	1726
07	1408	1445	1487	1530	1578	1627	1673	1726	1782	1832
08	1487	1530	1578	1627	1673	1726	1782	1832	1889	1946
09	1578	1627	1673	1726	1782	1832	1889	1946	2010	2073
10	1673	1726	1782	1832	1889	1946	2010	2073	2145	2218
11	1782	1832	1889	1946	2010	2073	2145	2218	2295	2379
12	1889	1946	2010	2073	2145	2218	2295	2379	2463	2556
13	2010	2073	2145	2218	2295	2379	2463	2556	2639	2739
14	2145	2218	2295	2379	2463	2556	2639	2739	2838	2941
15	2295	2379	2463	2556	2639	2739	2838	2941	3041	3146
16	2463	2556	2639	2739	2838	2941	3041	3146	3249	3371
17	2639	2739	2838	2941	3041	3146	3249	3371	3475	3605
18	2838	2941	3041	3146	3249	3371	3475	3605	3714	3851
19	3041	3146	3249	3371	3475	3605	3714	3851	3971	4115
20	3249	3371	3475	3605	3714	3851	3971	4115	4251	4408

	A	B	C	D	E	F	J	K	L	M
21	3475	3605	3714	3851	3971	4115	4251	4408	4554	4725
22	3714	3851	3971	4115	4251	4408	4554	4725	4885	5050
23	3971	4115	4251	4408	4554	4725	4885	5050	5236	5433
24	4251	4408	4554	4725	4885	5050	5236	5433	5629	5843
25	4554	4725	4885	5050	5236	5433	5629	5843	6047	6259
26	4725	4885	5050	5236	5433	5629	5843	6047	6259	6480
27	4885	5050	5236	5433	5629	5843	6047	6259	6480	6719

2. The following shall be incorporated as Article 24, Section 1(f).

(f) A compensatory payment will be paid to employees who are in the Bargaining Unit on March 15, 1982. Such payment will be equal to fifteen (15%) percent of said employee's monthly wage on March 15, 1982. Said monthly wage will be determined from the appropriate salary schedule in effect on March 15, 1982. Such payment shall be paid within thirty (30) days after March 15, 1982, or within thirty (30) days from the time the monies are appropriated by the Legislature and they become available, whichever is later.

3. The current wage table appearing at Article 24, Section 1(b) will remain in effect through March 15, 1982.

4. Article 39 of the current Agreement shall continue as currently in effect until December 31, 1982.

Signed this 19th day of JANUARY, 1982 at Juneau, Alaska.

For the State of Alaska:

W. R. Hudson, Commissioner
Department of Administration

Bruce I. Ludwig, Spokesman

For the Alaska Public Employees' Association:

Cherie Shelley, Executive Director

John E. Casperson, Spokesman

Karen P. Clark, Negotiator

Fran M. Podmolik, Negotiator

Ron Bedard, Southeastern Negotiator

Richard Peterson, Southcentral Negotiator

Shirley Herning, Northern Negotiator

SB

671

POSITION PAPER

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT

Senate Bill 671
"An Act relating to licensing of certain chiropractors without examination; and providing for an effective date."

The Department of Commerce and Economic Development supports SB 671.

This bill provides the Board of Chiropractic Examiners an effective vehicle to scrutinize applicants desiring licensure in Alaska without examination. The present licensure by credentials law, AS 08.20.140, is vague and does not allow the board to interview applicants or require the necessary licensing information needed for the board to judge an applicant's competence to practice as a chiropractor in Alaska. SB 671 definitely provides better protection of Alaska citizens seeking chiropractic treatment.

This bill, if passed, is not expected to require an increased appropriation. An applicant requiring an interview with the board can meet with them at a regularly scheduled meeting (at least three times each year).

Recommended by: Harry D. Treager

Harry D. Treager, Director

Date: March 30, 1982

Approved by: Edward W. Eboch

Edward Eboch, Deputy Commissioner
Department of Commerce & Economic Development

Date: 3-30-82

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SB 671 Summary:

Allows for the issuance of a license to practice chiropractics without a license when additional conditions have been met. Current law provides that an applicant who presents satisfactory proof of the possession of a valid foreign or out of state license may be issued a license without examination if the requirements for the license he holds are equivalent to those of Alaska.

Chiropractor must be a graduate of a legally chartered accredited school of chiropractics, approved by the board, that requires a residence course of instruction of at least four years of nine months each;

The chiropractor must have been actively engaged in the practice for at least three years immediately preceding the application; he must not be the subject of an unresolved complaint, review procedure, or disciplinary proceedure undertaken by a professional chiropractic association.

The chiropractor must not have had a previous license revoked, and he must not have failed the practical examination authorized by AS 08.20.130. He must also be personally interviewed by the board, and must pay all fees required by the state.

(2) has successfully completed at least two academic years of study in a college of liberal arts or sciences;

(4) is a graduate of a legally chartered accredited school or college of chiropractic, approved by the board, which requires for graduation a residence course of instruction of not less than four years of nine months each;

(5) passes an examination given by the board;

(6) Repealed by § 8 ch 32 SLA 1971.

(7) passes to the satisfaction of the board Part I and Part II of the examination of the National Board of Chiropractic Examiners. (§ 35-3-25 ACLA 1949; am § 1 ch 53 SLA 1955; am § 1 ch 91 SLA 1965; am § 25 ch 245 SLA 1970; am § 8 ch 32 SLA 1971; am § 1 ch 84 SLA 1972)

Revisor's note (1972). — In ch. 84, SLA 1972, the apparently necessary word "examination" was omitted from AS 08.20.120(7). It has been added here.

Legislative committee reports. — Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6. For report on ch. 32, SLA 1971 (HB 111 am), see 1971 House Journal, p. 138.

Sec. 08.20.130. Examinations. (a) Examinations for a license to practice chiropractic may be held in the time and manner fixed by the board.

(b) The examination may include practical demonstration and oral and written examination in those subjects usually taught in accredited chiropractic schools.

(c) A general average rating of 75 per cent is a passing grade on the examination.

(d) An applicant may take a re-examination within one year after failing the examination upon payment of a fee of $10. (§ 35-3-27 ACLA 1949; am § 2 ch 91 SLA 1965)

Am. Jur. reference. — 41 Am. Jur., Physicians and Surgeons, §§ 40, 41.

Sec. 08.20.135. Associate. A person who complies with § 120 (1), (2), (4), (5), and (6) of this chapter shall, pending compliance with (3) of § 120 of this chapter, be licensed to serve as an associate in an existing chiropractic clinic or office under the direct supervision of a licensed chiropractor for a period not to exceed three years. (§ 3 ch 91 SLA 1965)

Editor's note. — Paragraphs (1) and (6) of § 120, referred to in this section have been repealed.

Sec. 08.20.140. Out-of-state licenses. The board may issue a license without examination to an applicant presenting satisfactory proof of the possession of a license or certificate of registration in a state or territory of the United States, or a foreign country, if the requirements for

Sec. 08.20.140. Licensure by credentials. The board may issue a license without examination to an applicant presenting satisfactory proof of the possession of a license or certificate of registration in good standing in a state or territory of the United States, or a foreign country, if the requirements for registration at the date of his license are essentially equivalent to those in AS 08.20.010 — 08.20.220. (§ 35-3-25 ACLA 1949; am § 1 ch 53 SLA 1955; am § 8 ch 162 SLA 1980)

Effect of amendments. — The 1980 amendment inserted, "in good standing," substituted "essentially" for "considered by the board as," and deleted "and if the licensing jurisdiction extends the same privilege to those holding a license from this date" following "in AS 08.20.010 — 08.20.220" at the end of the section.

Sec. 08.20.170. Grounds for suspension, revocation or refusal to issue a license. (a) The board may, after a hearing, impose a disciplinary sanction on a person licensed under AS 08.20.010 — 08.20.220 when the board finds that he

(1) secured a license through deceit, fraud, or intentional misrepresentation;

(2) engaged in deceit, fraud, or intentional misrepresentation in the course of providing professional services or engaging in professional activities;

(3) advertised professional services in a false or misleading manner;

(4) has been convicted of a felony or other crime which affects his ability to continue to practice competently and safely;

(5) intentionally or negligently engaged in or permitted the performance of patient care by persons under his supervision which does not conform to minimum professional standards established by regulation regardless of whether actual injury to the patient occurred;

(6) failed to comply with AS 08.20.010 — 08.20.220, with a regulation adopted under AS 08.20.010 — 08.20.220, or with an order of the board;

(7) continued to practice after becoming unfit due to

(A) professional incompetence;

(B) addiction or severe dependency on alcohol or a drug which impairs his ability to practice safely;

(C) physical or mental disability;

(8) engaged in lewd or immoral conduct in connection with the delivery of professional service to patients.

(b) The Administrative Procedure Act (AS 44.62) applies to any action taken by the board for the suspension or revocation of a license.

(c) Any person whose license is suspended or revoked may within two years from date of suspension apply for reinstatement, and if the board is satisfied that the applicant should be reinstated, it shall order reinstatement.

(d) The board shall adopt regulations which insure that renewal of license is contingent on proof of continued competency by a practitio-

Effect of amendments. — The 1980 amendment rewrote the section.

Sec. 08.20.180. Fees. The board shall impose and collect the following fees:

(1) upon the filing of an application for examination, $50;

(2) upon application for re-examination, $20;

(3) for issuance of temporary permit, $50;

(4) initial and renewal license, due every four years, $200. (§ 35-3-30 ACLA 1949; am § 1 ch 13 SLA 1968; am § 12 ch 162 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "$50" for "$25" in paragraphs (1) and (3), "$20" for "$10" in paragraph (2), and "due every four years, $200" for "$50," in paragraph (4), deleted "biennial" following "initial and renewal" in paragraph (4), and deleted former paragraph (5), which read: "associate license, $30."

Chapter 24. Collection Agencies.

NOTES TO DECISIONS

AS 08.24.011 — 08.24.380 does not regulate the activities of debt collection agencies vis-a-vis debtors; its primary concern is the relationship between debt collection agencies and the state. State v. O'Neill Investigations, Inc., Sup. Ct. Op. No. 2053 (File Nos. 4109, 4165), 609 P.2d 520 (1980).

Effect of exemption clause of AS 45.50.481(1). — The exemption clause of AS 45.50.481(1) does not withdraw the activities of independent debt collection agencies from the scope of the Unfair Trade Practices and Consumer Protection Act (AS 45.50.471 — 45.50.561). State v. O'Neill Investigations, Inc., Sup. Ct. Op. No. 2053 (File Nos. 4109, 4165), 609 P.2d 520 (1980).

Article 3. Licensing.

Sec. 08.24.150. Bond.

NOTES TO DECISIONS

Cited in Allison v. State, Sup. Ct. Op. No. 1703 (File No. 3716), 583 P.2d 813 (1978).

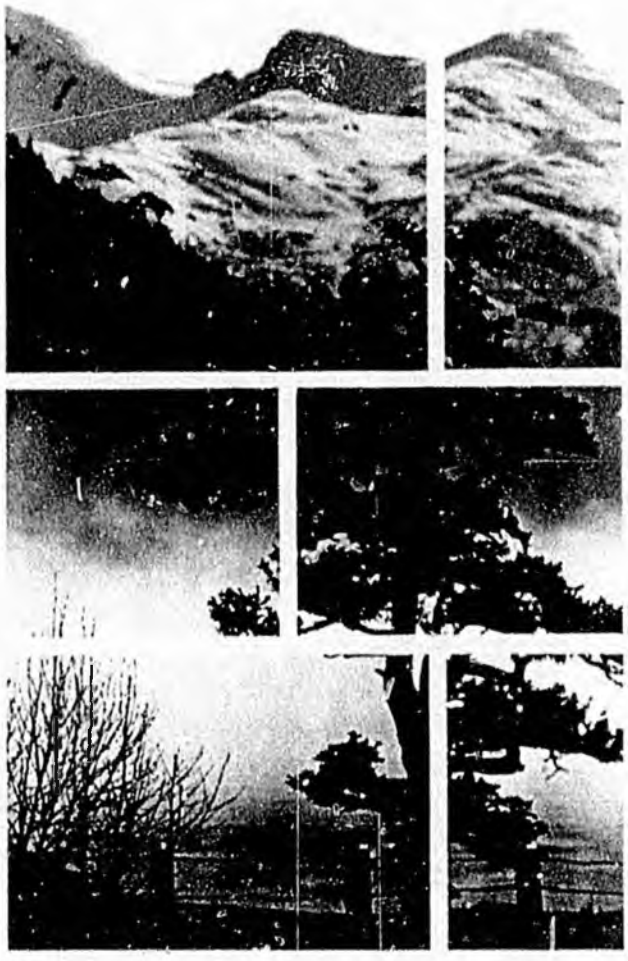
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ALASKA PERMANENT FUND Corporation

1981 Annual Report
And Financial Statements

ALASKA PERMANENT FUND Corporation



Members of the Board of Trustees

Elmer E. Rasmuson, Chairman
Thomas K. Williams, Vice-Chairman
Peter B. McDowell, Secretary
Wilson L. Condon
Robert W. Ward
George W. Rogers

Acting Executive Director

Peter Bushre, Treasurer

Contact Address

Alaska Permanent Fund Corporation
Pouch SB
Juneau, Alaska 99811

Telephones: Juneau, (907) 465-2350
Anchorage, (907) 277-1496



Elmer Rasmuson
Chairman of the Trustees

ALASKA PERMANENT FUND CORPORATION
POUCH SB - JUNEAU, ALASKA 99811
TELEPHONE 907-465-2351

BOARD OF TRUSTEES:
ELMER E. RASMUSON - CHAIRMAN
THOMAS K. WILLIAMS - VICE-CHAIRMAN
WILSON L. CONDON
PETER B. MCDOWELL
GEORGE W. ROGERS
ROBERT W. WARD

RESPONDENT ADDRESS

September 30, 1981

"Shaping the Future of the Permanent Fund"

In the fall of 1976, the people of Alaska made the first great change in their fiscal affairs, creating the Permanent Fund. This set aside 25% of the oil royalties and related income of the State (about 11% of all oil receipts) and the Legislature can set aside more from year to year, as it added $900 million in 1980 and $1.8 billion in 1981.

In truth, the Permanent Fund began chiefly with a "negative" goal, to place a part of one-time oil wealth beyond the reach of day-to-day government spending. During these past five years, Alaskans have taken up the work of defining the "positive" goals of the Permanent Fund. The first results of that effort were in 1980, prescribing the independent management of the Fund and setting out a cautious list of investments and providing dividends for the public from the earnings of the Fund. This effort of defining positive goals continues.

For our part, we, your trustees, are convening a series of seminars to explore the possible futures of the Permanent Fund and the best ways to attain them. Meeting jointly with a select legislative delegation, we have asked the counsel of economists and other financial specialists, of major Alaskan interests, and of the general public.

We have been guided by the conviction that shaping the future of the Permanent Fund must be done in the light of **all** the oil revenues. Otherwise, there is the danger the Permanent Fund will duplicate or work against other State actions instead of complement them. Accordingly, we have brought into one public forum the issues that surround budget growth, the loan and capital programs, the equity of how the oil money is being divided—and the Permanent Fund. This is described in this Annual Report.

We are in the midst of preparing recommendations for the opening of the next legislative session. Already, I believe, there is a growing sense of which questions are the key ones: What is the fundamental purpose of the Fund (high quality savings, some kind of development program, or both if they are not in conflict); given a fundamental purpose, what is the proper size of the Fund and what adjustments in the management structure and the list of authorized investments may be necessary, especially to protect the income and capital of the Fund from surging inflation; how much income could be used for what purposes and with how much equity?

The Permanent Fund is unique in being created by the people themselves and not only for the present generation. Shaping its future is not to be done by your Trustees alone or by any one group. We ask for the help of all our fellow Alaskans.

Sincerely,

Elmer Rasmuson
Chairman of the Trustees

THE YEAR IN REVIEW

Actions of the Trustees

The six Trustees appointed as the first board of the newly created Alaska Permanent Fund Corporation were faced with a series of critical decisions in several areas: (1) organization and management; (2) establishment of investment guidelines; (3) review of the current provisions of law; and (4) examination of issues crucial to the future of the Fund.

Organization and Management

Under the provisions of the Permanent Fund Act, the Trustees were given the freedom to elect all officers of the board and to reevaluate those decisions on an annual basis. At their first annual meeting, the Trustees elected Elmer Rasmuson as Chairman, Thomas Williams as Vice-Chairman, and Deputy Commissioner of Revenue Peter Bushre, who had been chosen Acting Executive Director, as Secretary-Treasurer. The Chairman and Vice-Chairman were reelected at the second annual meeting, with Peter McDowell elected Secretary and Mr. Bushre as Treasurer.

Among other management decisions during the first year were the selection of Attorney General Wilson Condon as general counsel, the appointment of the Department of Revenue as agent for the corporation to continue managing the Fund at the Trustees' direction, taking formal action to transfer the Permanent Fund to the Alaska Permanent Fund Corporation by the end of calendar year 1980, selecting Price Waterhouse & Co. as the Fund's auditors, selecting Trustees' staff, and making decisions regarding the development of a separate entity for management of the Fund.

A paper on organization and management by Trustee Peter McDowell served as a focus in the Trustees' discussion of moving to separate or "independent" status as provided for by law. There was a consensus among the Trustees in examining the legislative history that although they were not legally bound to develop a separate corporate entity, there existed a public and legislative preference for their doing so. The Chairman appointed a subcommittee to identify the factors involved in implementing this intent, to develop a time line for effecting the move and to determine staffing requirements.

Investments

The Permanent Fund Act provides what is generally considered a very narrow range of permissible investments. Faced with an unpredictable and wildly fluctuating money market, the Trustees have followed a conservative investment strategy, directing the Fund managers in the Department of Revenue to emphasize short term money market instruments in the Permanent Fund's portfolio. Initial direction to the managers was to consider four years as the outer perimeter of acceptable investment with greater emphasis to be placed on two year maturities. As the year continued, the Trustees urged progressively shorter maturities, so that by the end of the fiscal year, the average weighted life of marketable securities in the Fund was one year one month. Since June 30, 1981, all marketable investments in the Fund have been limited to maturities of three months and shorter duration.

The Trustees adopted a plan to place 5% of the Fund in in-state federally guaranteed mortgages for owner-occupied one-to-four unit dwellings. A plan to place 5% of the Fund in in-state banks in the form of time certificates of deposit with maturities established in one year increments, funds to be rebid at maturity, was also adopted.

Review of Current Provisions

Early in the year, in a paper entitled "Thoughts of the Chairman", Mr. Rasmuson observed that the narrow range of allowable investments in the current law prevents the Trustees from providing an effective hedge against inflation. He called for consideration of modifications in the Fund legislation to allow investments which would offset inflation, and he also identified the need to coordinate any examination of the Fund, which automatically receives only about 11% of the state's oil wealth, with plans for the remaining 90% of the revenues. This approach was endorsed by the Trustees, who further agreed that the task of shaping the Fund must be a continuing process and that if the Fund is to have a stabilizing role in the Alaskan economy, any changes must be made with careful deliberation.

Subsequently, a special legislative panel was appointed to work with the Trustees. Appointments were made both by Senator Sturgulewski, Chairwoman of the Legislative Budget and Audit Committee, which has statutory oversight responsibility for the Permanent Fund, and by the presiding officers of the Legislature. A series of seminar/work sessions was scheduled and the Trustees and legislators are meeting regularly to examine the issues and discuss recommendations.

Examination of Issues

A consensus has emerged as to the questions which must be addressed and on which recommendations ought to be made.

Assuming the fundamental role of the Fund to be provision of high quality savings, with both present and future residents enjoying the income, is there also a possible development role and is that role desirable? What are the risks of concentrating investments within a single state? Is the present investment list adequate and, if not, would it be prudent to diversify into other asset classes such as equities, real estate or foreign assets? What are similar institutions doing in this regard? Given the fact that the principal and income of the Fund will be eroded by inflation, should some provision be made to pay out only "real" or inflation-adjusted income rather than all income? Should an objective rate of return over the rate of inflation be set as an overall performance measurement goal (i.e., 2% over the rate of inflation)? What management changes may be needed (such as composition of the board, size of internal staff)? What legal constraints must be considered in making recommendations? And, finally, what is the proper size of the Fund? This last question turns on how the income may be used. Several proposals for the use of income have been advanced; distribution to residents, covering some part of future state budgets, and endowing central programs in the budget, such as education, housing, or local grants, are some of the possibilities.

Guest speakers of national repute have been featured at the series of seminars. Broad questions of state spending and distribution of oil wealth were dealt with by Professor Don Gordon of City University of New York, Katherine Peden, a private industrial development consultant, Nobel laureate Kenneth Arrow from Stanford, Professor Maxwell Fry of University of California at Irvine, and Professor Richard Coffman of University of Idaho. George Russell of the Frank Russell Company, Robert Greeley, manager of corporate investments at Hewlett Packard, and Sam Nakagama of Kidder, Peabody & Co., specifically addressed investment strategy.

To obtain more detailed information on investment and management questions, representatives of the Permanent Fund, Treasury Division, the Legislative Budget and Audit Committee and the Attorney General's office had a series of meetings with prominent New York financial houses, reports were filed upon their return.

Meetings and Information

Four regular meetings and two special meetings were held during fiscal year 1981 and two meetings have been held thus far in fiscal year 1982. Dates and places are noted below. Summary minutes are available for all meetings. In addition, a compilation of papers presented by guest speakers, together with an executive summary, will be made available to the Legislature in January. Copies of that report will be furnished upon request to any interested groups or individuals.

Regular Meetings

September 12, 1980 — Juneau
November 21, 1980 — Juneau
March 20, 1981 — Juneau
June 30, 1981 — Anchorage
September 10 & 11, 1981 — Juneau

Special Meetings

January 9, 1981 — Juneau
May 8, 1981 — Juneau
August 20, 1981 — Fairbanks

Future meetings are scheduled for October 22 and 23 in Anchorage, December 3 in Juneau, and at a date uncertain in January in Juneau. The public is always encouraged to attend meetings and is given an opportunity to address agenda items.



FUND PERFORMANCE DURING FY 1981

(July 1, 1980—June 30, 1981)

Investment Strategy

Fiscal year 1981 was a period characterized by extreme volatility in financial and capital markets. As measured by the accepted bond indices, the first and third quarters of calendar year 1980 were the worst two in fifty years, while the second quarter was the best ever recorded. Declining interest rates in the second quarter encouraged both consumers and corporate borrowers to resume their earlier spending patterns. As a result the economy experienced the shortest recession on record—three months—and then bounced back to produce extraordinary growth in early 1981 before weakening in the second quarter of 1981. While inflation has abated recently, there is nothing substantive to indicate that this improvement is anything more than a temporary phenomenon. Wage demands continue strong and there has been no improvement in productivity.

Fund investments during FY 81 were concentrated in two year and shorter maturities, with investments in progressively shorter maturities as the year advanced and the economic climate remained unpredictable. By mid-June, 90.7% of the Fund portfolio matured within two years, 66.9% within one year, and 49.8% within six months. On June 30, 1981, the average weighted life of marketable securities was one year one month as compared to three years one month on the same date in 1980.

Performance Versus Goals

AS 37.13.170 requires that the annual report include a comparison of corporation performance with the goals outlined in AS 37.13.020. These goals are: (1) conservation of a portion of the state's mineral resource revenues to benefit all generations of Alaskans; (2) maintain safety of principal while maximizing total return; (3) management of Fund as a savings device to allow maximum use of disposable income for purposes defined by law.

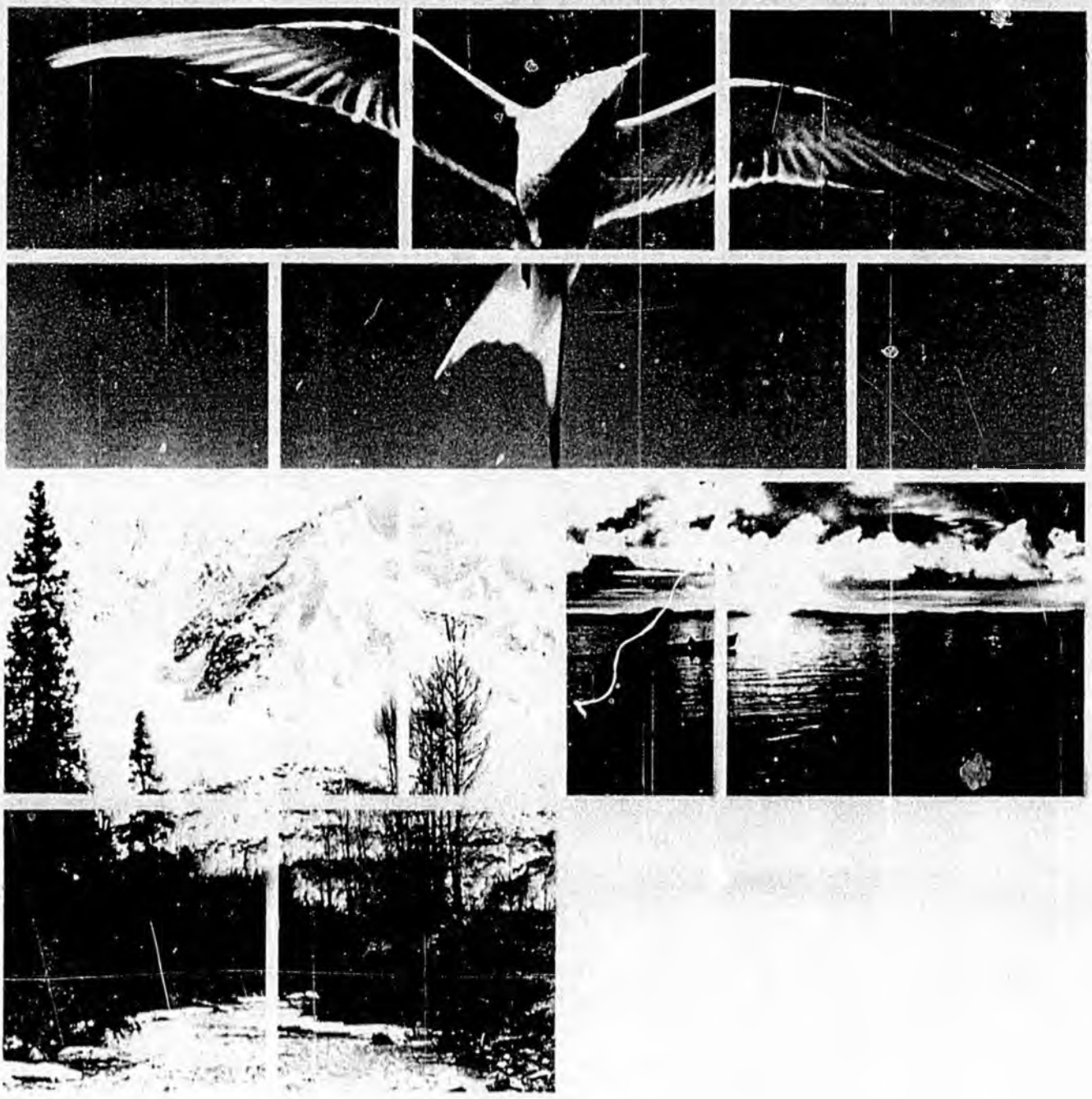
Through the regular contributions required by the constitutional amendment and by the Permanent Fund Act, plus the special appropriation of $900 million made during the 1980 legislative session, the Permanent Fund grew from $483,208,000 on June 30, 1980, to $1,827,299,000 on June 30, 1981.

The realized rate of return on Fund investments has climbed steadily and was 16.0% as of June 30, 1981. The net realized gain on transactions retained in the Fund's principal during fiscal year 1981 is $219,388. All principal contributions have been retained in the Fund's balance, and disbursement of income earned has been limited to cash amounts received.

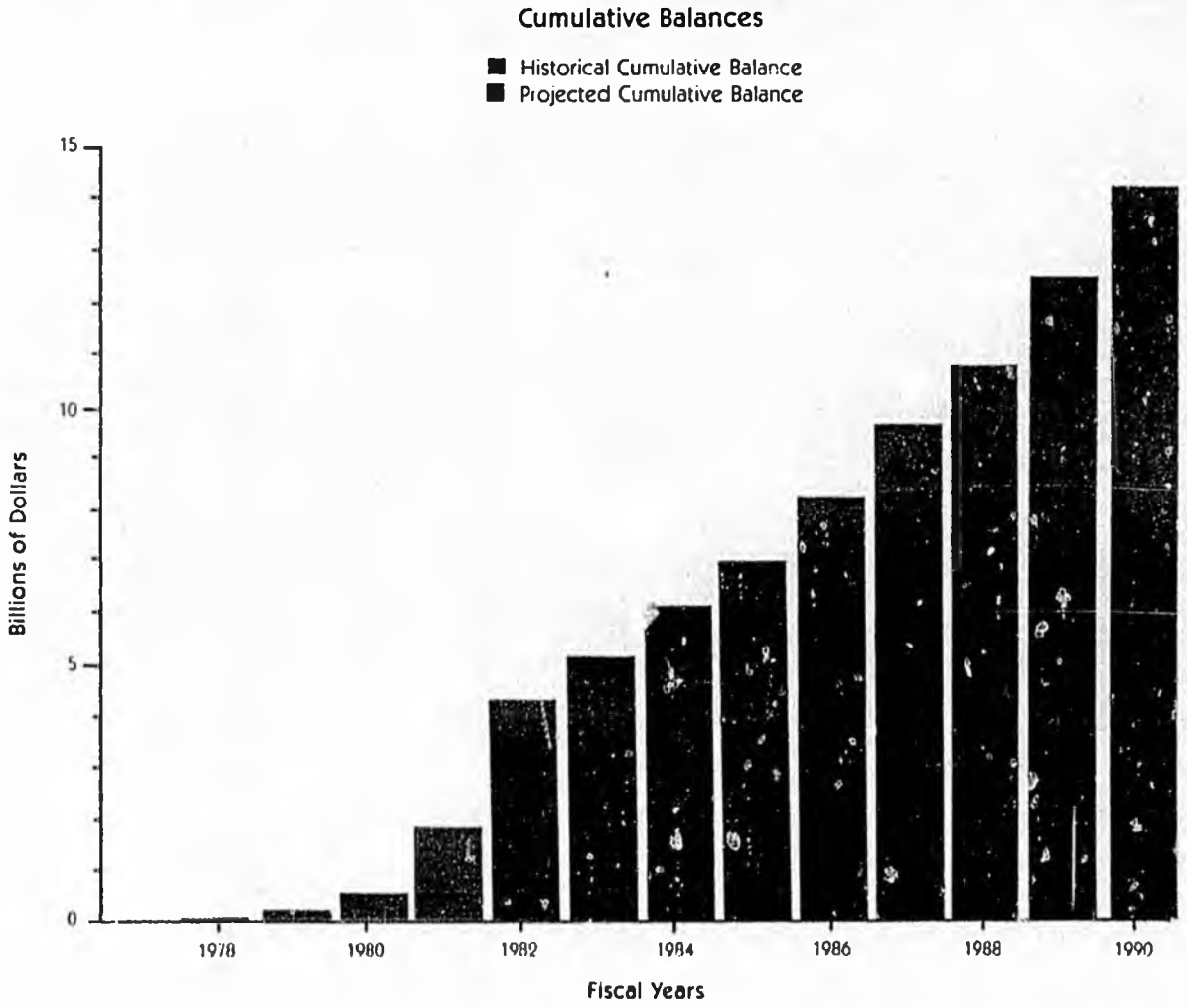
The Permanent Fund Dividend Plan is the only provision currently in law for the use of disposable income. According to the constitutional amendment which created the Permanent Fund, all disposable income of the Fund is transferred to the General Fund and is available for expenditure by the Legislature, unless otherwise provided by law. The statutory provision for payment of dividends in proportion to duration of Alaska residence has been challenged. The Alaska Supreme Court decision upholding the dividend distribution plan is presently under review by the U.S. Supreme Court; a decision is expected sometime in early 1982.

Audit

The Fund was audited by Price Waterhouse & Co., independent public accountants, for the 1981 fiscal year. The auditors expressed an unqualified opinion as to Statements of Net Assets, Investment Income and Changes in Net Assets.



OUTLOOK FOR FISCAL YEAR 1982



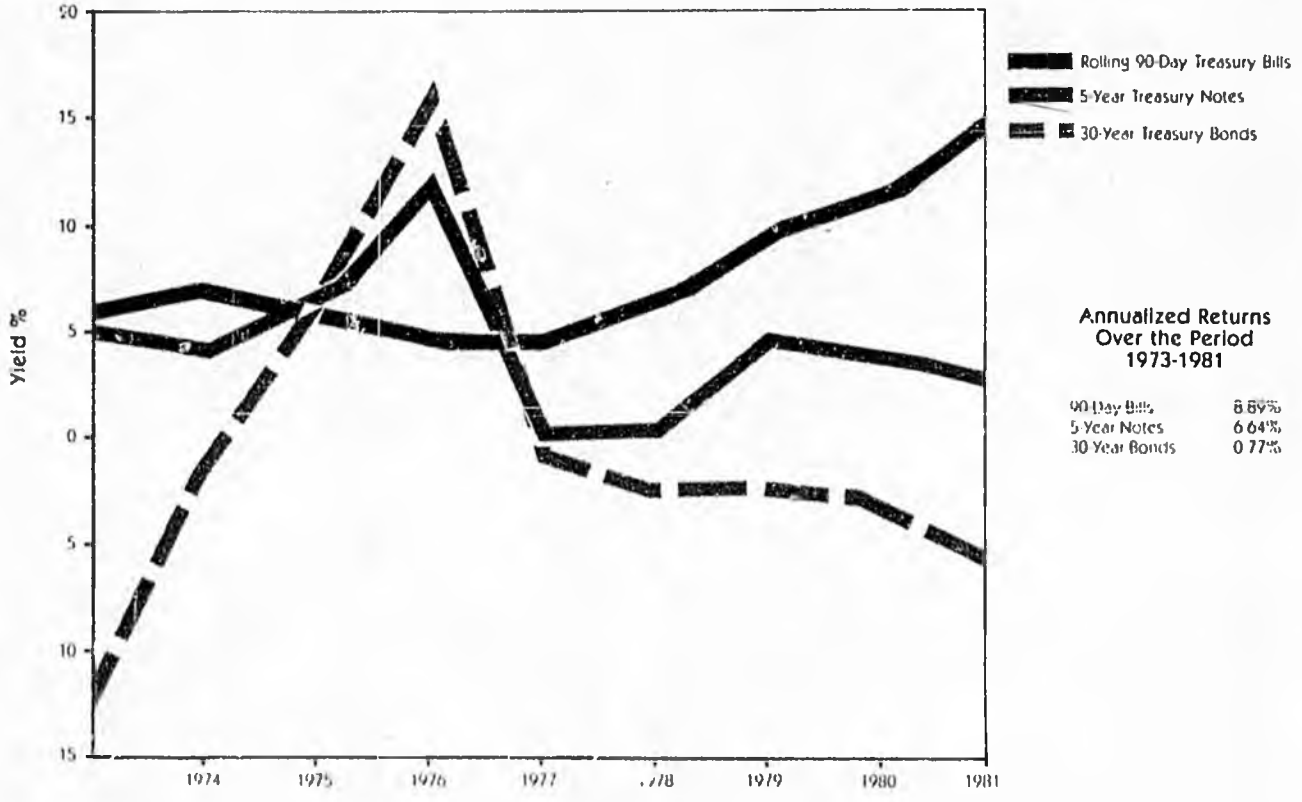
Fund Balance

During the 1981 legislative session, a special appropriation of $1.8 billion was made to the Permanent Fund under the provisions of Chapter 51, Session Laws of Alaska 1981. With the addition of that amount plus regular contributions, the Fund is projected to be $4,273,900,000 on June 30, 1982.

Economic Outlook and Investment Strategy

The central concern in the development of any coherent investment strategy is the willingness of the U.S. government to come to grips with inflation and the nature of policies proposed to bring it under control. The Administration's budget cutting and tax cut victories along with its defense program have raised a number of significant concerns within the investment community. There is a growing realization that the U.S. Treasury and federal agencies will continue to make heavy demands on the credit markets for the remainder of this year and 1982. The Treasury's early estimate of $42.5 billion deficit for federal fiscal year 1982 is proving to be unrealistic, and a number of private analysts are projecting a deficit in the $70 to $80 billion range. The Administration is currently searching for new areas to cut spending, but any search will likely involve some extremely difficult political struggles.

Fixed Income Total Returns
(Revised Sept. 1981)



Annualized Returns Over the Period 1973-1981

90 Day Bills	8.89%
5 Year Notes	6.64%
30 Year Bonds	0.77%

Alaska Permanent Fund

Realized rates of return, income, and portfolio balances
for the fiscal years ended June 30, 1981, 1980, 1979, & 1978

	Fiscal Year 1981	Fiscal Year 1980	Fiscal Year 1979	Fiscal Year 1978
Realized rates of return (based on accrued income)	16.00%	11.29%	8.24%	7.53%
Investment income (including amounts earned but not rec'd. by year end)	$ 149,867,000	$ 32,426,923	$ 7,967,131	$ 1,791,000
Case earnings received transferred to general fund	$ 54,931,481	$ 23,675,560	$ 5,702,926	$ 900,434
Average portfolio balance	$ 936,243,000	$287,255,000	$ 96,700,000	$ 23,800,000
Marketable securities on June 30, at cost	$1,846,491,000	$493,427,071	$137,783,958	$ 54,387,000
Marketable securities on June 30, at market	$1,795,730,000	$493,444,000	$136,140,000	$ 52,300,000

There appears to be a growing perception in the financial markets that a strict monetarist monetary policy and supply-side oriented fiscal policy are not entirely mutually compatible. Those advocating most strongly the supply side fiscal policy are already beginning to contend that high interest rates are suppressing economic growth, pushing the federal budget further out of balance and jeopardizing the tax cut's chance of success. The Federal Reserve Bank, on the other hand, is undoubtedly concerned that a significant easing in interest rates would start another inflationary surge in pent up consumer demand for housing and automobiles. These concerns are also no doubt compounded by fears that this surge could be reinforced by the administration's three year tax cut and a planned surge in defense spending. Fixed income investors seem to sense that eventually one philosophy will have to be deemphasized.

Given the volatility of the economy and interest rates, a conservative investment strategy emphasizing short term investments appears best suited to providing high rates of return while at the same time minimizing the risks of capital depreciation. Until such time as fiscal and monetary policies are brought into a more harmonious relationship, interest rates are likely to remain highly volatile.

ALASKA PERMANENT FUND Corporation

Financial Statements
June 30, 1981

Price Waterhouse & Co.

Price Waterhouse & Co.

101 WEST BENSON BOULEVARD
ANCHORAGE, ALASKA 99503
907-279-1424

August 13, 1981

To the Board of Trustees
Alaska Permanent Fund Corporation

In our opinion, the accompanying statements of net assets, of investment income and of changes in net assets present fairly the financial position of the Alaska Permanent Fund Corporation at June 30, 1981 and its investment income and changes in net assets for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year. Our examination of these statements was made in accordance with generally accepted auditing standards and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances, including at June 30, 1981 confirmation of securities owned by correspondence with the custodians. The financial statements of the Alaska Permanent Fund Corporation for the year ended June 30, 1980 were examined by other independent accountants, whose report dated August 29, 1980 expressed an unqualified opinion on those statements.

Price Waterhouse & Co.

Price Waterhouse & Co.

ALASKA PERMANENT FUND Corporation

Statement of Net Assets

	June 30 1981	June 30 1980
Cash in Savings Account	$ 43,000	$ 39,000
Contributions receivable from the State General Fund	92,000	34,000
Interest Receivable	26,925,000	9,377,000
Loans and Mortgages	1,086,000	
Investment Securities, at cost		
U.S. Treasury notes and bonds	670,771,000	303,964,000
Bankers acceptances	537,715,000	23,510,000
U.S. Treasury bills	466,615,000	20,583,000
Certificates of deposit	137,600,000	111,879,000
Corporate bonds	13,487,000	13,487,000
Federal agency notes	13,004,000	13,004,000
Securities purchased under agreements to resell	7,300,000	7,000,000
	1,846,492,000	493,427,000
Amounts due to the State General Fund	(47,339,000)	(19,669,000)
Net Assets	**$1,827,299,000**	**$483,208,000**

See accompanying notes to financial statements

ALASKA PERMANENT FUND Corporation

Statement of Changes in Net Assets

	Year Ended June 30	
	1981	1980
Assets Were Provided By:		
Investment income	$ 149,867,000	$ 32,427,000
Contribution from the State of Alaska General Fund	900,000,000	
Royalties and other State receipts	385,128,000	344,396,000
Total assets provided	1,434,995,000	376,823,000
Transfers of investment income to State of Alaska General Fund	(90,904,000	(32,161,000)
Increase in net assets	**$1,344,091,000**	**$344,662,000**
Increase (Decrease) in Components of Net Assets:		
Cash in savings account	$ 4,000	$ 8,000
Contributions receivable	58,000	(205,000)
Interest receivable	17,548,000	5,936,000
Loans and mortgages	1,086,000	
U.S. Treasury notes and bonds	366,807,000	231,530,000
Certificates of deposit	25,721,000	106,865,000
Bankers acceptances	514,205,000	(4,843,000)
U.S. Treasury bills	446,032,000	20,583,000
Federal agency notes and bonds		5,008,000
Securities purchased under agreements to resell	300,000	6,500,000
Commercial paper		(10,000,000)
Amounts due to the State General Fund	(27,670,000)	(17,720,000)
	$1,344,091,000	**$344,662,000**

See accompanying notes to financial statements

ALASKA PERMANENT FUND Corporation

Statement of Investment Income

	Year Ended June 30	
	1981	1980
Interest Income:		
U.S. Treasury notes and bonds	$ 61,279,000	$13,060,000
U.S. Treasury bills	32,229,000	808,000
Bankers acceptances	28,115,000	5,251,000
Certificates of deposit	22,636,000	10,130,000
Securities purchased under agreements to resell	1,950,000	306,000
Corporate bonds	1,140,000	1,140,000
Federal Agency notes and bonds	1,082,000	1,069,000
Commercial paper	1,062,000	387,000
Other interest income	120,000	
Savings account	35,000	10,000
	149,648,000	32,161,000
Net securities gains	219,000	266,000
Investment income	**$149,867,000**	**$32,427,000**

See accompanying notes to financial statements

Note 1 — Authorization

The State of Alaska Constitution was amended by voter approval in 1976 to provide for the segregation of certain mineral lease rentals, bonuses, royalties, royalty sale proceeds and federal mineral revenue sharing payments received by the State for the use and benefit of present and future residents.

Distributable income from the Corporation is defined by statute and further clarified by administrative regulation to be the lesser of the latest fiscal year's income or the average annual current income calculated using a simple average of the last five years or the number of years in existence if less than five after adjustment for capital gains and losses.

All of the Corporation's investment securities are held by a commercial lending institution pursuant to a custodial agreement, except for certain certificates of deposit purchased from Alaska banks.

Note 2 — Summary of Significant Accounting Policies:

The accounting and reporting policies of the Alaska Permanent Fund Corporation conform to generally accepted accounting principles. The more significant accounting policies are as follows:

Interest Income

Interest income on loans is accrued monthly as earned.

Interest income on investments is shown net of amortization of premium and accretion of discount.

Investment Securities

Investment securities are carried at cost adjusted for amortization of premium and accretion of discount. Investment securities are expected to be held to maturity and, therefore, will be fully realized.

Gains or losses on the sale of securities are determined on a specific identification basis.

Provision for Loan Losses

The provision for loan losses is determined from specific evaluation of delinquencies and would be charged directly to operations in the period that the loss exposure becomes known. At June 30, 1981 no provision has been made since no losses are presently anticipated.

Note 3 — Marketable Securities:

The cost and estimated market value of investment securities at June 30, were as follows:

	1981		1980	
	Cost	Market	Cost	Market
U.S. Treasury notes & bonds	$ 670,771,000	$ 633,501,000	$303,964,000	$304,967,000
Bankers acceptances	537,715,000	536,411,000	23,510,000	23,692,000
U.S. Treasury bills	466,615,000	464,330,000	20,583,000	20,924,000
Certificates of deposit	137,600,000	134,120,000	111,879,000	113,899,000
Corporate bonds	13,487,000	8,135,000	13,487,000	10,753,000
Federal Agency notes	13,004,000	10,642,000	13,004,000	12,209,000
Securities purchased under agreements to resell	7,300,000	7,300,000	7,000,000	7,000,000
	$1,846,492,000	**$1,794,439,000**	**$493,427,000**	**$493,444,000**

Note 4 — General Fund Contribution:

For the year ended June 30, 1981, the State of Alaska Legislature appropriated $900,000,000 to the Corporation from the General Fund. For the year ended June 30, 1982, the Legislature appropriated an additional $1,800,000,000 to the Corporation from the General Fund of which at least $1,400,000,000 is to be contributed prior to June 30, 1982.

Note 5 — Administrative Expenses (Unaudited):

Administrative and other expenses are paid by the State of Alaska General Fund and are not included in the accompanying statements. The related budget and actual expenses for 1981 and budgeted expenses only for 1982 for operations of the Permanent Fund Corporation are as follows (unaudited):

1981		1982
Budget	Actual	Budget
$206,800	**$165,000**	**$450,500**

Photographs courtesy of the Division of Economic Enterprises
Department of Commerce and Economic Development.

Legislative Committee of Oversight

Legislative Budget and Audit Committee
Senator Arliss Sturgulewski, Chairwoman

Special Legislative Liaison Committee

Senator Arliss Sturgulewski, Chairwoman
Senator Patrick Rodey
Senator Vic Fischer
Senator Bob Mulcahy
Senator Ed Dankworth
Representative Al Adams
Representative Hugh Malone
Representative Bob Bettisworth
Representative Oral Freeman
Representative Sam Cotten
Representative Ernie Haugen

Cross references. — For provisions concerning application to the Department of Revenue for permanent fund dividends for 1979, see editor's note following the chapter analysis to AS 43.23.010 — 43.23.100.

Sec. 43.23.030. Amount of dividend. By December 1 of each year the commissioner shall give public notice of the value of each permanent fund dividend to be paid in the following year. The commissioner shall determine the value of a permanent fund dividend by

(1) determining the amount of income of the Alaska permanent fund transferred to the dividend fund under AS 43.23.050(b) in the current year, less the amount, if any, to be repaid in the current year to the general fund under AS 43.23.050(c);

(2) determining the number of permanent fund dividends paid during the current year; and

(3) dividing the amount determined in (1) of this section by the amount determined in (2) of this section. (§ 2 ch 21 SLA 1980)

Editor's notes. — For 1979 the value of a permanent fund dividend is $50. See § 3, ch. 21, SLA 1980, in the 1980 Temporary and Special Acts and Resolves.

NOTES TO DECISIONS

Chapter is constitutional. — See notes under same catchline following chapter analysis.

Stated in Williams v. Zobel, Sup. Ct. Op. No. 2201 (File No. 5400), 619 P.2d 448 (1980).

Sec. 43.23.040. Penalties and enforcement. (a) In addition to any criminal penalties imposed by state law, if an individual is convicted of unsworn falsification for a statement made in a certification of residency made for purposes of AS 43.23.010 — 43.23.100, and the conviction is not reversed, that individual is not, and may never become, eligible for a permanent fund dividend, and he forfeits all permanent fund dividends paid to him.

(b) If the commissioner determines that a permanent fund dividend should not have been claimed by or paid to an individual, he may use any collection procedures or remedies available under AS 43.05.010 — 43.80.040 to recover the payment of a permanent fund dividend which was improperly made. (§ 2 ch 21 SLA 1980)

Sec. 43.23.050. Dividend fund established. (a) The dividend fund is established as a separate fund in the state treasury. The dividend fund shall be administered by the commissioner and may be invested by the commissioner in the same manner provided for the investment of the Alaska permanent fund under AS 37.13.120. Money in the dividend fund and any interest earned from investment of money in the dividend fund shall be used to pay permanent fund dividends annually and to repay loans from the general fund as provided in (c) of this section.

(b) Each year the commissioner shall transfer to the dividend fund 50 percent of the income of the Alaska permanent fund which was earned during the fiscal year ending on June 30 of the preceding year and which is available for distribution under AS 37.13.140.

(c) The legislature may annually appropriate money from the general fund to the dividend fund if there is not enough money in the dividend fund to pay each eligible individual an annual permanent fund dividend valued at $50. One-fifth of the amount transferred to the dividend fund each year under (b) of this section shall be annually withdrawn from the dividend fund by the commissioner and deposited in the general fund to repay appropriations made under this subsection. (§ 2 ch 21 SLA 1980)

Cross references. — For provisions concerning application to the Department of Revenue for permanent fund dividends for 1979, see editor's note following the chapter analysis to AS 43.23.010 — 43.23.100.

NOTES TO DECISIONS

Chapter is constitutional. — See notes under same catchline following chapter analysis.

Stated in Williams v. Zobel, Sup. Ct. Op. No. 2201 (File No. 5400), 619 P.2d 448 (1980).

Sec. 43.23.060. Duties of the department. The department shall

(1) by the 10th day of each regular legislative session, present a request to the legislature for an appropriation from the general fund to the dividend fund to satisfy the requirements of AS 43.23.050;

(2) annually pay permanent fund dividends from the dividend fund;

(3) adopt regulations under the Administrative Procedure Act (AS 44.62.010 — 44.62.650) which establish procedures and time limits for claiming a permanent fund dividend; the department shall set the time limit for applications for permanent fund dividends so that single-payment permanent fund dividends for a year are paid before October 15 of the following year and so that installment-payment permanent fund dividends for a year begin by October 15 of the following year; and

(4) assist residents of rural areas who because of language, illness, old age, or inaccessibility to public transportation need assistance to establish eligibility and to apply for permanent fund dividends. (§ 2 ch 21 SLA 1980)

Sec. 43.23.070. Exemption of permanent fund dividends. (a) An eligible individual may assign, pledge, or encumber not more than 50 percent of the annual permanent fund dividends which are due and payable or which may become due and payable to the individual.

(b) Fifty percent of the annual permanent fund dividends payable to an individual is exempt from levy, execution, garnishment, attachment, and any other remedy for the collection of a debt.

PAINE
WEBBER
JACKSON
& CURTIS
INCORPORATED

Established 1879 Members New York Stock Exchange, Inc. and Other Principal Exchanges
Denali Towers North, 2550 Denali St., Suite 1603, Anchorage, Alaska 99503 (907) 276-6939

Mailed in person via Juneau

March 16, 1982

Senator Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

As a follow up to our discussion on March 12, 1982, with regard to the Permanent Fund, it is hoped that this letter can be entered into the record.

The purpose of this letter is to insure that if the Permanent Fund is allowed to invest in Equities and Bonds, that as long as Alaskan Brokerage houses can be competitive that they should be permitted to participate in the purchase and sale of Securities.

Alaska has four major brokerage houses at present, all with world wide offices and major institutional trading departments in New York and San Francisco.

I would like to be kept advised of our request and if necessary I would like the consideration to introduce Legislation to protect the Alaskan Brokers who are taxpayers and residents.

Very truly yours,

Dennis L. Waldock

DENNIS L. WALDOCK
Vice President

DLW/dm

STATE OF ALASKA
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF INSURANCE

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

March 17, 1982

Honorable Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: CS SB 684 Informational Request

In insurance language "Capital" is invested money by investors that is not encumbered.

"Surplus" is added funds accumulated over a period of time. These funds are not encumbered.

"Capital" and "Surplus" are for the benefit of all policyholders should the need arise for their use.

"Reserves" in insurance language is the amount of money set aside for known losses or losses incurred but not reported. "Reserves" in insurance language is encumbered money.

Sincerely,

Kenneth C. Moore
Director

KCM/lt3/12

cc: Charles R. Webber, Commissioner

08-M11LH

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM May 14, 1981

SUBJECT: Confirmation of appointees of the board of trustees of the Alaska Permenant Fund

TO: Senator Arliss Sturgulewski

FROM: John B. Chenoweth
Legislative Counsel

You have directed my attention to two provisions relating to legislative review and confirmation of the members of the board of trustees of the Alaska Permanent Fund:

> The Legislative Budget and Audit Committee has the power to:
>
> * * *
>
> (9) hold public hearings on the confirmation of the members of the Board of Trustees of the Alaska Permanent Fund Corporation . . .

AS 21.20.201(a).

> 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 . . .

AS 24.20.206. You have inquired as to "the right of the legislature to hold confirmation hearings for appointees to the permanent fund board of trustees".

Legislative confirmation on these appointees may not constitutionally be required. The decision in Bradner v. Hammond, 553 P.2d 1 (1976), contains the most pertinent discussion of the underlying reason:

"In Alaska State-Operated School System v. Mueller, 536 P.2d 99, 103 (Alaska 1975), we observed that '[t]hose who wrote our constitution followed the traditional framework of American government. The governmental authority of the State of Alaska was distributed amng the three branches, the executive, the legislative, and the judicial'. Analyzing this tripartite form of government provided for Alaska, this court concluded, in Public Defender Agency v. Superior Court, Third Judicial District, 534 P.2d 947, 950 (Alaska 1975), that . . . it can be fairly implied that this state does recognize the separation of powers doctrine.

* * *

"A problem inherent in applying the doctrine of 'separation of powers' stems from the fact that the doctrine is descriptive of only one facet of American government. The complementary doctrine of checks and balances must of necessity be considered in determining the scope of the doctrine of the separation of powers.

* * *

"In the instant appeal, the parties, in recognition of the controlling nature of the issue, dispute the meaning of the doctrine of separation of powers, and its implication for the determination as to whether Chapter 82 is violative of Alaska's constitution. In our view, the doctrine is of importance to the resolution of the merits of this appeal, for if the doctrine clearly precludes legislative intervention (by confirmation) in the appointm nt of executive officials, or requires 'strict departmentalization,' then Chapter 82, which purports to authorize legislative 'meddling' in the exercise of an executive power, is unconstitutional because it would be violative of separation of powers requirements.

"In determing if Chapter 82 violates the doctrine of separation of powers, which is implicit in Alaska's constitution, it is necessary to answer whether the appointment of executive officers is a legislative or executive function.

* * *

"Appellee [Hammond] contends that the appointment of executive officers is an executive function. We find appellee's contention most pursuasive. In addition to vesting the executive power of the state in the governor, Section 16 of Article III provides that '[t]he governor shall be responsible for the faithful execution of the laws'. In view of the responsibilities imposed by Section 16, and the authority granted by Section 1, the governor is necessarily clothed with the power to appoint subordinate executive officers to aid him in carrying out the laws of Alaska. Thus we conclude that the appointment of executive officers is an executive function; for without such a power, the responsibility of executing executive duties would be diffused and the goal of separation of branches of government avoiding too great a concentration of power in one branch, would be defeated.

* * *

"[I]t is then necessary to determine the nature of the legislature's confirmation powers. Here we are in agreement with appellee's analysis that under Alaska's constitution confirmation is a specific attribute of the appointment power of the executive. Other courts which have been called on to resolve this issue have been unanimous in their holdings that confirmation is not a distinct legislative power, but rather a part of the executive power of appointment which in turn has been delegated in some specific instances by constitution to the legislative branch of government.

"In light of the nature of the legislature's power of confirmation, the question whether Sections 25 and 26 of Article III describe the outer limits of the legislature's confirmation authority, or whether the legislature may be statute require confirmation of other high-level, policy making officials within the executive branch, admits of but one resolution. As to this issue, we think the provisions of Sections 25 and 26 of Article III are clear and unambiguous. Thus we conclude that Sections 25 and 26 mark the full reach of the delegated, or shared, appointive function to Alaska's legislative branch of government.

> "The lack of ambiguity in Sections 25 and 26 of Article III of the Alaska Constitution mandate that this court interpret these express provisions as embodying not only the maximum parameters of the delegation of the executive appointive authority through the legislative confirmation function but, further, that they delineate the full extent of the constitution's express grant to the legislative branch of checks on the governor's power to appoint subordinate executive officers. In our view, the separation of powers doctrine requires that the blending of governmental powers will not be inferred in the absence of an express constitutional provision." (Emphasis and bracketted material added, footnotes omitted). 1/

1/ I cannot find that, in preparing the many drafts of the 1980 permanent fund legislation, this office ever formally advised a committee or member of the legislature that the confirmation requirements under consideration were unconstitutional. There is only a handwritten note from the revisor to the file:

> For the file: The appointment and removal provisions violate Bradner v. Hammond re confirmation. This is not (1) a regulatory board, (2) a board at head of dept. Confirmation is unconstitutional. . .

However, the governor had the benefit of timely advice:

> "The bill has some provisions which are in conflict with the constitution; however, they appear to be severable, and the bill should otherwise be effective and valid.
>
> "The unconstitutional provisions are those which provide or relate to the legislature's confirming the appointment of board members or to the legislature's vetoing their removal. In Alaska, the constitution prescribes which offices are subject to confirmation, and the legislature

> Apparently, it is the position of the attorneys in the executive branch that the requirement of confirmation of permanent fund trustees is a requirement of Chapter 18, SLA 1980 which is severable. Hence, they have suggested that the legislation may be carried out as if the unconstitutional provision did not exist. Quoting, again, from the adivsory letter:
>
> As a general rule, unconstitutional provisions may be treated as severable and the remainder of the bill upheld if (1) the bill would be whole and effective so severed, and (2) the legislature would have enacted the bill even without the severed provisions. Here, the bill obviously forms a whole and effective law without the unconstitutional provisions. Additionally, the Eleventh Legislature's enactment of legislation prescribing the fund's management was its number one priority. We cannot conceive of its not enacting this legislation with or without its unconstitutional features. Accordingly, they are severable, and the bill should be applied just as if those provisions did not exist.

Letter of the Attorney General, April 7, 1980, pp. 1, 2.

There is support for the position taken by the Attorney General in his letter, chiefly in a lengthy consideration of the applicability of severability principles in Lynden Transport, Inc. v. State, 532 P.2d 700 (1975):

1/ Continued

> has no power to add to that list without a constitutional amendment. Bradner v. Hammond, 553 P.2d 1 (Alaska 1976). The constitutional also prescribes which executive actions are subject to a legislative veto, and the legislature has no power to add to that list without a constitutional amendment. State v. A.L.I.V.E. Voluntary, ___ P.2d ___ (Alaska 1980). Accordingly, those provisions of the bill which require legislative confirmation of appointments and authorize a legislative veto of removals from office are unconstitutional."

Letter of the Attorney General of April 7, 1980, p. 1.

"[AS 01.10.030] contains the following general savings clause:

> "Any law heretofore or hereafter enacted by the Alaska legislature which lacks a severability clause shall be construed as though it contained the clause in the following language, 'If any provision of this Act, or the application thereof to any person or circumstance is held invalid, the remainder of this Act and the application to other persons or circumstances shall not be effected thereby.'

"This is designed to preserve to as great an extent as possible all valid portions of enactments by the Alaska State Legislature.

"The federal rule with regard to specific severability sections which are enacted as part of a challenged statute is relatively well settled. In Carter v. Carter Coal Co. [298 U.S. 238, 80 L.Ed.1160 (1936)], the Supreme Court stated the effect of such a provision:

> "In the absence of such a provision, the presumption is that the Legislature intends an act to be effective as an entirety -- that is to say, the rule is against the mutilation of a statute; and if any provision be unconstitutional, the presumption is that the remaining provisions fall with it. The effect of the statute [specific section] is to reverse this presumption in favor of inseparability, and create the opposite one of separability. Under the nonstatutory rule, the burden is upon the supporter of the legislation to show the separability of the provisions involved. Under the statutory rule, the burden is shifted to the assailant to show their inseparability. But under either rule, the determination, in the end, is reached by apply the same test -- namely, What was the intent of the law makers?
>
> "Under the statutory rule, the presumption must overcome by considerations which establish 'the clear probablity that the invalid part being eliminated the Legislature would not have been satisfied with what remains.'

> "By interpreting the statutory severability provisions as reversing the common law presumption that a statute void in part was void in its entirety, the Supreme Court intended to provide a rule of construction which may sometimes aid in determining that [legislative] intent. But it is an aid merely; not an inexorable command." (Footnotes omitted).

536 P.2d 700, at 711, 712. There is additional support provided in Sutherland's treatise on Statutes and Statutory Construction:

> "Although there is no measureable differences in effect between general separability acts and particular separability clauses in individual statutes, it is reasonable inference that because a general act cannot control subsequent legislative intent and therefore is questionable evidence if it, less weight may attach to such a general rule of separability than to the clause in a separate act. Thus general separability statutes have been regarded as mere codifications of a canon of statutory construction. One state has given the same effect to a general severability statute as to particular saving clauses, applying the usual federal rule that it substitutes a presumption in favor of severability in place of the common-law presumption against it. But generally these statutes are treated only as aids to interpretation and not as commands.
>
> "If the valid parts are dependent or not severable from the invalid parts, all must fall. The valid parts must be enforceable as a separate law. If the remaining valid portions would not be passed by the legislature without the invalid, the statute must fail in its entirety. When the most important features or the paramount intent is invalid, the entire act must fall. Thus the rules concerning normal separability are still present.
>
> "The principle of separability is sometimes separately enacted as general law applicable to all acts subsequently adopted in the state irrespective of whether such subsequent acts contain their own separability clauses. Courts have considered these clauses as codifications of general rules of interpretation, not binding as fixed rules of law."

2 Sutherland, Statutes and Statutory Construction, sec. 44.11 (4th ed., Sands, 1973). Lynden Transport, and cases cited therein 2/ which construed Alaska's severability clause, AS 01.10.030, enunciate the general rule:

> The test for determining the severability of a statute is twofold. A provision will not be deemed severable "unless it appears both that, standing alone, legal effect can be given to it and that the legislature intended the provision to stand, in case others included in the act and held bad should fall." 3/

432 P.2d 700, at 713. Clearly, in the case of the permanent fund legislation, Chapter 18, SLA 1980, the remaining provisions of the legislation may stand even absent the legislative confirmation requirement.

From the record of the legislation, I cannot say that the legislature intended the entirety of the bill to be set aside in the event the confirmation requirement would be found invalid. The legislature did not specifically include a provision setting aside the bill in its entirety in the event any portion of it were set aside. While the legislature did underscore the significance of legislative oversight of permanent fund corporation activities, 4/ the confirmation requirement is not particularly significant to that "oversight" when considered in context.

2/ State v. Baker, 363 P.2d 892 (Alaska 1964) and Speidel v. State, 460 P.2d 77 (Alaska 1969).

3/ Quoting Dorchy v. Kansas, 264 U.S. 286, at 290, 68 L.Ed. 686 at 690 (1924).

4/ See Sec. 1, Chapter 18, SLA 1980:

> 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

In conclusion, I share the Attorney General's counsel to the governor expressed in his April 7, 1980 letter. The confirmation provisions are unconstitutional and almost assuredly are severable. You should not expect the governor formally to submit the names of individuals appointed as trustees of the Alaska Permanent Fund for your committee's review and legislative approval.

JBC:ljb

4/ Continued

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.

Meetings with Investment Firms
Week of July 6-10

SUMMARY OF INVESTMENT DISCUSSIONS

People in attendance:

Permanent Fund Staff
- James B. Rhode
- Susi Gregg Fowler

Department of Revenue,
Treasury Division
- Peter A. Bushre
- William L. Means

Legislative Budget and Audit
- Steven Rieger

Department of Law
- Laura Davis

The question that rose most frequently in New York was "What is the objective of the Alaska Permanent Fund?" The near unanimous opinion was that this question must be addressed by the Trustees before meaningful discussion can occur on such questions as allocation of investments and investment strategy. Robert Salomon, of Salomon Brothers, asked whether the Board of Trustees realized that if the Permanent Fund paid out more than 3% to 5% of its earnings, a level of earnings above inflation which might be attainable, the Trustees would be operating a fund with diminishing real capital and real income. At such time that the Permanent Fund ceased to grow in real terms, either through inflation or a fall in contributions, it would become self-liquidating. The crucial decision is whether the Permanent Fund is going to pay out real earnings, all earnings or a portion thereof. This is a grave problem being faced today by a growing number of foundations and university endowments. The Rockefeller Foundation, a $1 billion foundation, has grown substantially in nominal terms, but has experienced an actual 35% contraction in real earnings power while the Ford Foundation, a $2.5 billion foundation, has contracted in real earnings power by 55%. If nothing is done to curb these foundations' spending programs, Robert Salomon stated that he could project for their trustees the dates on which they would be totally self-liquidated.

Once the objective of the Permanent Fund has been decided, much will be determined as to level of risk which will be required to meet that objective. Long term studies, for example, have indicated that it is unrealistic to expect to earn more than a 2% real rate of return on a high grade fixed income portfolio, whereas a 3% to 5% real rate of return has been attainable in common stock over an extended period of time. Questioning Salomon Brothers as to what percentage

of common stock that they thought might be appropriate to the Permanent Fund given an earnings objective of a 3% to 5% real rate of return, the response was 80%. U. S. Steel Pension Fund, a pension fund in a mature industry, has approximately 80% of its assets currently in common stock, 10-15% in real estate, and the balance in fixed income securities. As reported by the S. E. C., the typical large corporate pension plan is approximately 55% invested in common stock. The normal asset mix of a portfolio under management by the Prudential Insurance Company of America is 40% to 60% in common stock and 20% to 30% in real estate equity, with the balance in fixed income securities. Mr. William Field, Senior Vice President of Prudential's Asset Management Department, indicated that for reasons of political toleration a 20% commitment to common stock might be more advisable for the Alaska Permanent Fund.

Mr. William Field, Mr. Robert Salomon and Mr. Heath McLendon, President of the investment management firm of Bernstein-Macaulay, Inc. agreed that the Trustees should seek authority from the Legislature to invest in domestic common stock, foreign securities, and real estate equity. They also volunteered that in their respective opinions, the timing for purchases in foreign securities and real estate was not good. However, they all felt that there would be better opportunities in the next two or three years, and any program to make major commitments in foreign securities and real estate should be understood by all to be a three to five year program. However, in their judgment, it is highly desirable to obtain authority as soon as possible so as to maximize flexibility.

With the exception of the U. S. Steel Pension Fund, it was the opinion of those that we contacted that the Alaska Permanent Fund, as a consequence of its sheer size, should utilize an index fund approach for its core holdings of common stock. Mr. William Field suggested that otherwise the investment management fees would become prohibitively expensive. It was suggested that outside managers be utilized in such specialized areas as high technology stocks, energy development stocks, foreign securities, and real estate equity to provide the Permanent Fund an extra increment of yield above that which an index fund would provide. It was the unanimous opinion of those to whom we talked that the significant danger in hiring a number of investment managers to manage the common stock portfolio was that the Permanent Fund would end up de facto as an expensively managed index fund. The largest acceptable number of outside managers suggested by anyone was six, and these six would cover the full gamut of investments from domestic common stock, foreign securities, to real estate equity. If more are hired, the feeling was expressed that the Trustees and staff are apt to find increasingly large segments of their time devoted to monitoring the managers performance and trying to determine how new flows of investable funds are to be allocated among the various investment managers.

Typically most large corporate pension plans are handled by outside investment managers with a number of plans managing only fixed income assets in house. Among the people we visited, only the manager of the U. S. Steel Pension Fund unqualifiedly thought that the entirety of the Alaska Permanent Fund could be managed in house in Alaska. The U. S. Steel Pension Fund is managed entirely in house with a staff of eleven investment professionals. This staff consists

of nine Certified Financial Analysts, one trader, and one specialist in money market and fixed income securities. It is interesting to note, however, that although the headquarters for the U. S. Steel Corporation is in Pittsburgh, the Company chose to run its pension fund out of New York City. Also the manager of the Fund felt that they were not close enough to the European markets to run a portfolio of European securities out of their New York office. Mr. William Field of the Prudential Insurance Company of America, on the other hand, felt on the basis of his experience with governmental bodies that the Trustees would likely have great difficulty in obtaining funding from the Legislature to run an in house operation with first class talent. To attract a top administrator to the Permanent Fund would require, in his opinion, a salary of approximately $250,000 per annum with other positions scaled down to $70,000.

The consensus opinion was that, if the Trustees chose to run fixed income securiti in house, an index fund for core domestic stock holdings, and to choose outside investment managers for other specialized investment areas, a staff of four investment professionals plus clerical help would be adequate to manage a $6 billion or larger fund. Assuming a staff of four investment professionals, one should specialize in fixed income securities; one should manage the index fund; one should monitor the outside managers; and one should have expertise in the field of real estate investments.

In selecting investment managers, the general feeling was that enough information is published regarding the performance of investment managers that the Board of Trustees should utilize its staff to select the most promising managers to make investment presentations before the Trustees. It was also strongly urged by Mr. Heath McLendon and Mr. William Field that the Permanent Fund staff make visits

directly to potential managers' offices to meet their staffs and discuss with them their investment philosophies and how they visualize investing for the Permanent Fund. It was felt that only after the Permanent Fund staff has made its selection of potential managers should a consultant be hired for the specific purpose of reviewing this list to see if any managers of merit have been missed.

It was interesting to note the generally low regard held for performance measurement analysts by most people we visited. While agreeing that they are necessary for public bodies in order to provide an element of comfort to them, they felt that they are expensive and that undue heavy reliance on them may result in inappropriate comparisons. In measuring performance, Mr. William Field strongly urged that the Standard & Poor's 500 not be used as the measurement of performance. Rather, in his opinion, the measure should be the ability of a fund to earn a specific positive rate of return above inflation on a consistent basis. Consistency, in his view, is the most important element of measurement.

In conclusion, there are two basic questions which the Board of Trustees should address before deciding questions of organization and investment strategy. As Robert Salomon said these are questions which your Trustees cannot avoid for they will ultimately be held responsible for the answers whether or not they address the questions directly or leave them to members of their staff. The questions are as follows:

1. What is to be the objective of the Alaska Permanent Fund?
2. How is the corpus of the Alaska Permanent Fund to be allocated to different types of investments?

Once the first question is answered, much will have been determined about the level of liquidity which can be maintained and the parameters of risk that the Permanent Fund will have to assume in order to attain its objective. Quite obviously the level of risk toleration would have to be sustantially higher should the Board seek to obtain a 5% real rate of return as opposed to a 2% real return, and the allocation of investments would have to be concentrated in those areas which have a higher element of inherent risk but also offer potentially greater investment rewards.

INVESTMENT MEETINGS
New York City

Monday - July 6

9:30 A. M. Bache Halsy Stuart Shields Inc.
Bache Building
100 Gold St.
6th Floor
New York City, N. Y.
Sam Plia, Lou Auer, Executive Vice President
212-791-2467

12:00 Noon (To include lunch)
Prudential Insurance Company
Newark, N. J.
William Field 201-877-7979

Tuesday - July 7

11:30 A. M. (To include lunch)
Shearson Loeb Rhoades Inc.
2 World Trade Center
106th Floor
John McDougall 212-577-2718

Wednesday - July 8

10:00 A. M. The First Boston Corporation
20 Exchange Place
8th Floor
(To include lunch)
Gene Boehringer 212-825-2096

3:30 P. M. Discount Corporation of New York
58 Pine Street
Rodney Bird 212-248-8931

6:00 P. M. (To include dinner)
The Leash Club
41 East 63rd St.

Thursday - July 9

11:00 A. M. (To include lunch)
U. S. Steel Pension Fund
General Motors Building
767 Fifth Avenue
Graham Harrison, President & John Van Duesen, Vice President
212-826-8472

3:00 p.m. Buck Consulting Group

INVESTMENT MEETINGS - New York City Continued -

Friday - July 10

10:00 A. M. (To include lunch)
Salomon Brothers
One New York Plaza
42nd Floor
R. S. Salomon 212-747-7000

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K -- STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

July 31, 1981

Mr. Elmer Rasmuson, Chairman
Board of Trustees
Alaska Permanent Fund Corp.
Box 600
Anchorage, AK 99510

Re: Legal assistance re
investment practices

Dear Mr. Rasmuson:

I am writing to inform you of the current activities of the Department of Law relating to the investment of state funds. As background, the current status of the investment of state funds may be summarized as follows:

The monetary assets of the State of Alaska now consist of four funds: the general fund, the public employees' retirement system fund, the teachers' retirement system fund, and the permanent fund, all of which are managed and invested by the Treasury Division of the Department of Revenue, under the authority and supervision of the commissioner of revenue. The approximate aggregate balance of these funds at present is $4.9 billion (approximately $510 million in the PERS fund, $385 million in the TRS fund, $1.8 billion in the permanent fund, and $2.2 billion in the general fund). These figures represent the amount of money for which the treasury has investment management responsibility (not the amount available for appropriation or expenditure), and they vary from day to day depending on the flow of income and the demand on state warrants.

The investment of each of the four funds is regulated by a separate statute (AS 14.25.180, TRS fund; AS 37.-10.070, general fund; AS 37.13.120, permanent fund; and AS 39.35.110, PERS fund), and in the case of the permanent fund, by a constitutional provision requiring investment only in income-producing assets. Alaska Const., art. IX, § 15. These statutes vary in terms of the list of specific types of investments which are authorized, but each contains a general provision commonly known as the prudent-man or prudent-investor rule.

There is a large body of law interpreting the prudent-investor rule in the context of both public and private funds. It is our opinion that prudence in the management of all of these state funds requires the development and implementation of consistent procedures and practices for the evaluation of investment opportunities, and the execution of investment agreements, which conform to the prudent-investor rule. The development of such routine practices and procedures is particularly important at present, because of the rapidly expanding variety of investment alternatives, the volatility of financial markets, and the rapid expansion of the state treasury.

While in New York with the permanent fund and treasury staff, I met with members of two law firms (Shearman & Sterling, and Debevoise, Plimpton, Lyons, and Gates) to discuss their ability to provide legal assistance on matters related to state investment practices. I also met with the chief general counsel in the Investment Management Group of Citibank, N.A. to discuss matters related to the function of general counsel to an institution which manages large investment funds.

We have retained Shearman & Sterling to assist us in preparation of an agreement related to investment in gold by the retirement funds. We are now discussing with both firms their ideas for assisting us in the development of standard investment practices and procedures as discussed above, and hope to retain one of them for this purpose in the near future. We believe that the development of such investment practices with the assistance of a law firm which is actively involved in advising major public and private financial institutions will be important in helping our investment managers to carry out their fiduciary responsibilities for our rapidly increasing state funds over the next several decades. Our current work in this area is aimed primarily at investment management for the retirement funds and the general fund, but will be directly relevant to developing investment management guidelines for the permanent fund.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: Laura L. Davis
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Thomas K. Williams
Robert W. Ward
George Rogers
Peter McDowell
Jim Rhode
Peter Bushre

Memorandum to the Trustees of the Permanent Fund
After a Year - Some Decisions we all Face

INTRODUCTION

The objective of this memorandum is to take stock of where we are with the Permanent Fund, identify where we are going, and indicate some of the policy decisions on which the Governor and the Legislature would want our views.

The decision which the Trustees made early last year to work in close liason with the Governor's office and the Legislature in evolving operational and future policy has proven a wise one. Everyone has been kept informed, and participation has been sincerely invited, including from the general public. Since the time for any legislative recommendations from our Board is rapidly approaching, I am setting down various observations for purpose of discussion, amplification and final decision, not later than our December meeting.

I. History

A) The Permanent Fund was created by constitutional amendment in 1976. The key features are:

1) "no less than" 25% of royalty and related mineral income goes into the Fund automatically (about 10% of total oil receipts today).

2) The money is to be used only for "income producing investments", this precludes using the principal for government spending, presumably rules out barren assets such as gold, and could bar taking equity positions that have delayed income.

3) Fund income goes into the general fund "unless otherwise provided by law", which the framers considered the most neutral place for the income pending legislative action.

B) Following a determined legislative struggle of four years, the Permanent Fund Act of 1980 provided:

1) Management by six trustees, three from the public, the Commissioner of Revenue, and the Governor's choice of any two other commissioners.

2) Independent staffing, internal or retained, with (rare) authority to hire without the normal restrictions and pay scales of the civil service.

3) A consciously restricted investment list (largely to forstall financial adventures by the Fund), focusing on U. S. government securities, money market paper, bank CD's, mortgages and other fixed income paper. Common stocks, income property, and foreign assets were not allowed.

4) Unusual rules were imposed to insure full disclosure of the Fund's activities and financial health, including special legislative oversight. These rules have since become a model for the laws governing other state corporations.

II. Possible Changes in the Permanent Fund

A) Perspective

1) In order to play a stabilizing role in state affairs (and to guard the independence of the Fund), changes ought to be careful and gradual.

2) The sheer magnitude of the Fund requires caution in making changes.

a) If all goes well, the Fund will have over $4 billion by next July. Alaska's economy, with $4.5 billion personal income last year, could not absorb this level of investment. Department of Revenue forecasts estimate the Fund to be $28 billions by the year 2000.

b) Even if we could force a large part of this money into our economy,

1) The "savings-income approach" is to convey the principal of the Fund to future generations, while both current and future residents enjoy the income.

2) The "full-scale development approach" is to have the Fund take the central role in the growth of the Alaskan economy, either by direct lending, the guarantee of business and municipal borrowings, or even the building of capital projects that earn user fees (at a market rate).

3) There are many problems with this second, "full-scale development approach".

a) The evidence presented to the Trustees is that major, sound business proposals do not lack investors here and from Outside. Indeed, the Native corporations, which have powerful reasons to find investment opportunities in Alaska, have a continual problem in finding new businesses for their money. A so-called "capital gap" usually turns out to be a gap in managerial skill or markets or labor costs between here and other places.

Asking the Fund to carry out this role may only result in displacing private capital, and may take us into risks and losses that betray the name of a "Permanent Fund."

b) If we choose to favor a sector of the economy with special programs, I believe that decision belongs in the Legislature. Even there, as we know, it is difficult to measure success, efficiency, and the fairness of programs. Correcting problems seems harder still. Cut off from elected officials, such programs seem bound to be a case of public money used for private policy.

4) I believe, however, there is a proper role for the Fund to play in our economy, as part of having a balanced portfolio. A year ago, I set out some of my first ideas on this matter. Essentially, a Fund taking part in Alaskan investments on equal terms and conditions with other investors is not the same thing as being the "Lender of First Resort."

III. Implications of the Basic Choice

A) Management under the "savings-income approach", with its clear aims, is fully consistent with the present independent status of the Fund. But I would ask you to consider these changes.

1) The effective supervision of a large investment pool, one day the largest of any state, cannot be an occasional thing. It is not for any of us today and the challenge can only increase. I believe that recognition of the time expected of each trustee is best made by an ample, but not full-time salary. In this way, people of the necessary background can be retained, without the Board ever becoming a place to reward political allies. Many large corporations compensate their directors on this basis.

2) If the true responsibilities of each trustee are extensive, their selection must be made, not only on a basis of special competence, but also on availability for the job. This raises a question as to availability of Commissioners for future trustee duties, since they presumably are already burdened with full-time responsibilities. The participation of the existing Commissioners has been excellent in this formative policy period but we will soon pass to an operational stage. Probably the Commissioner of Revenue should always be a trustee because of the information he brings as chief fiscal officer of the state and the consequent ease in coordination with the major force in Alaska's economy.

3) A Fund of this kind will not require a large, locally based staff. At this point, I see a place for some internal staff, both to share in placing the portfolio and to monitor specialty firms that will have to be retained. We cannot hope to draw people who are expert in some special areas of investment and, even if we could, they would be too far away from market centers.

The criteria for selection of investment managers necessarily depend upon the investment and Fund objectives. "[illegible]

B) If our basic choice is the "savings-income approach", then we have to deal with inflation. We may not have to spend principal for long decades, but a fall in real principal (adjusted for inflation) always brings a like fall in real income.

1) The first defense is to widen the list of legal investments to include some equities--both in stocks and real estate. All that "equity" means is residual ownership, after any debts have been satisfied. We all know that debts are paid off in fixed sums of money. Thus in times of inflation, the increased value of the property or security belongs to the equitable owner--the common stockholder.

This is the advise we are receiving from our visiting advisers and financial consultants outside the state. Our investments should be broadened to include some common stocks, income property and perhaps even foreign assets. Changes of this kind can be done prudently; but we must come to understand what it means to invest for the long term, which involves a patient outlook.

2) A second defense of the real principal is to return a portion of the Fund's earnings to the Fund for reinvestment. Perhaps we can limit outgo to real income, or simply half the earnings. One of the most powerful and prudent ways to expand the Fund (and at the same time offset inflation) is by reinvestment of income. Certainly, for the time being the General Fund of the state is not in need of supplements from the Fund.

Let me illustrate what happens if we do nothing. Suppose we had a $10 billion Fund earning 15%, and paid all of it out despite a 10% inflation. The result in 30 years is a fall in real income from $1.5 billion to $86 million at the end. To make the same point, a $1.5 billion Permanent Fund dividend will then only buy what $86 millions buys today.

3) This emphasis on maintaining purchasing power gives the clue to evaluating investment performance. We have been advised that the best measurement of performance should be the ability of the Fund to earn a specific rate of return above inflation on a consistent basis.

Inflation can be tracked through the Consumer Price Index (CPI). Some investment managers recommend comparison with the Gross National Product (GNP) deflater as a less volatile indicator.

The advantages of this approach is that the Trustees and Legislature can agree on a percentage above the inflation rate as being the target real income. This fits in with the concept of total asset management--both short and long term. It avoids striving for excessive and speculative returns which could lead to eventual losses.

C) Under this "savings-income approach", a number of uses for the income suggest themselves.

1) Cash dividends. This is already on the books, but pending, as you know, before the U. S. Supreme Court, and may have to be changed. This certainly brings the widest possible constituency for the Fund, but not a few have various problems with this approach, especially the problem of in-migration as the plan now stands.

2) Others speak of using the Fund income to cover future budgets for as long as possible. But there are serious doubts about this, first about our readiness to put the large sums aside in time, secondly about the wisdom of giving (another) blank check to the state government.

3) I want to offer a third approach, which compliments the idea of the dividends, although these are tax-free. It would be to endow central programs in the budget, those which benefit the widest cross-section of the public. They include education, housing, block grants to cities and boroughs, Alaskan oriented research, possibly energy.

Some of the thoughts expressed in my memorandum of November 21, 1980, are equally applicable today in our formulation of policy. They are thus incorporated herein by reference.

Memorandum from the Chairman of Trustees

The desirable changes in the legislative act creating the Alaska Permanent Fund are simple in concept and appear to need only be three in number. Most of the policy decisions and operating procedures of the Fund can better be defined through Board of Trustees Resolutions. This gives flexibility and, at the same time, clarity to the public.

The three legislative changes can be classified as follows:

1. Structure of the Board of Trustees to achieve a desirable degree of independence.

2. Expansion of the legal investments of the Fund to include equities--both in securities and in real estate.

3. Permission for the Trustees to reinvest part of the investment income of the Fund to offset the impact of inflation and to permit growth of the Fund.

These changes are discussed in supporting memoranda.

Structure of the Board of Trustees

The most fundamental part of the Permanent Fund and the determining factor in its success or failure is the Board of Trustees. Water cannot rise higher than its source.

The Board sets the policy for:

1. The goals of the Fund.
2. The investments within the limits set by the Legislature.
3. Selection of investment managers--whether in-house or outside.

In addition, the Board operates in close coordination in policy and practice with the executive and legislative branches of the state government.

The public image and confidence in the Fund rests with the Board.

Qualifications of the Trustees:

It is not reasonable to expect that the Trustees should be especially skilled in investment management. The prime requisites are that the Trustees be Alaskans of integrity and favorable public image.

However, it is desirable that each Trustee have a background in decision

appointment by the Governor, it is essential that the Board be reasonably insulated from the fluctuating winds of politics--either executive or legislative.

This is in order to:

1. Enable consistency in policy to be developed and implemented.

2. Give confidence to prospective staff in recruitment and in retaining of investment managers.

3. Attract top quality trustees.

The recommended independence has adequate safeguards built in for protection against an irresponsible independence of the Board.

From the standpoint of the executive branch, this results from the fact that the Governor:

1. Appoints all trustees and may remove them at will.

2. There is a continuous liason through the Commissioner of Revenue.

From the standpoint of the Legislature, this results from the fact that the Legislature:

1. Sets the legislative guidelines (i.e. the charter) of the Fund, which can be changed by any succeeding Legislature.

2. Determines the disposition of the earnings of the Fund.

3. Has review on a continuous basis through the joint Legislative Budget and Auditing Committee.

Conclusion:

The trustees can neither in theory nor in practice operate without joint support and confidence of both the Governor and the Legislature. The degree of independence recommended is merely to slow down precipitous action. This enables a reasonable time to:

1. Develop proper organization and investment strategy.

2. Evaluate the Board's policies and action by the Governor, the Legislature and the public.

The greatest safeguard from undesirable action by the Board, political office holders, or the public is through accepted tradition--and the next three years are crucial.

Implementation:

The movement towards beneficial independence can be facilitated by a change in the composition of the Board of Trustees to limit the cabinet representation to the Commissioner of Revenue and have four public members with staggered terms of

primarily associated with the responsibilities of their respective departments. However, because of the close relation necessary with the Department of Revenue, the duties of its Commissioner naturally flow into the work of a Fund Trustee. The close identity with the Governor's office inherent in having half of the Trustees represented by Commissioners has been very effective in the organizational stage of the Board. However, the operational stage which is forthcoming, will involve considerable travel, probably monthly meetings and numerous consultations, thus requiring commitments difficult for Commissioners to include in their busy time schedules.

If this change in composition of the Board is acceptable to the Governor and the Legislature, the necessary enabling legislation could be passed at the forthcoming session. Attached is a schedule showing the effect of the suggested change in composition and terms.

With the operational stage of the Board developing, it is logical to change the compensation of the public members by eliminating the honorarium for attendance at meetings and substitute an annual fee for all personal services of each public Trustee.

Reasoning:

The attendance honorarium is illogical in that it assumes that the Trustees' services are performed only at a stated meeting. It ignores the fact that the Board is a working body involving continuous services in committees, traveling, consultation with staff, investment managers, other fund trustees, participation in work shops with legislators, interested public groups, etc.

It is suggested that the public members receive an annual fee on a par with that of the legislators. This does not introduce an employee relationship but assumes the fiduciary relation comparable to that of directors of a corporation.

1. The suggested compensation would be in line with compensation of legislators, state of Alaska staff and private industry.

2. It assumes a dedication of 25% to 50% of the public members' time, depending on assignments.

3. The suggested fee is set to be midway between the value of the Trustee's services in the market place and a pure donation of time which is not within the ability of many fine, potential Trustees. It is not so large as to be a sought-

Governor in his choice of appointees.

Accountability of the Board:

The Legislature has provided for independence of Board management of the Fund by transfer of Fund assets to the Permanent Fund Corporation and instructions to manage and invest. However, there are problems of identity which soon will be upon us and deserve clarification.

1. There is no place under present law where the complete financial performance of the Fund is summarized and disclosed. Administrative and other expenses (e.g. supplies, safe keeping, travel, auditing, consultants' fees, etc.) are paid by the General Fund and are not included in the statements of the Permanent Fund. This is so significant an omission that our auditors have to mention it through footnote. This has also been commented on in public hearings. The forthcoming large expenses in staff and management consultants, this lack of centralization of all income and expenses of the Fund will prevent any proper accountability of Fund performance and the published statements will be a distortion of results.

2. To the extent that professional in-house investment management is built up, certain key personnel will probably require compensation at rates higher than presently contemplated in state salary structures. Those individuals are highly trained and, since the best are limited in supply, command specialty compensation. To the extent that investment managers are retained, their services, based on market value of assets could be greater than any previously paid state departments.

3. Another requirement for proper management of the Fund is strict confidentiality during sensitive operations. This includes the negotiation with investment managers, decisions on investment strategy, receipt and study of evaluations of both securities and the performance of investment managers. While the security portfolio held by the Fund would be published in detail, the decisions during the purchases and sales would require confidentiality.

A simple and straightforward solution to the foregoing problems is to designate the Permanent Fund Corporation as a separate entity for budgetary and accountability purposes. All income and expenses attributable to the Fund operation should flow through the Fund accounts. By this means, the financial statements of the Fund would disclose all results of operation and the complete performance of the Board Management could be easily monitored by the Governor, the Legislature and the public.

difficult to determine in advance but the number of positions could be estimated and then fixed by the Legislature if they so desire.

Expansion of Legal Investments of the Fund

The Legislature has charged the Board with the obligation of "conserving a portion of the state's revenues from mineral resources to benefit all generations of Alaskans." (Sec. 37.13.020(a)).

It would be of little benefit to future Alaskans to hand on to them a Fund of the same dollars but of sharply reduced purchasing power because of inflation. This has a double doleful impact, because a fall in real principal (adjusted for inflation) always brings a like fall in real income.

The advise we have received from visiting advisers, financial consultants and the fund managers in consistent. Our investments should be broadened to include equities--both in stocks and real estate.

The reasoning of the advice is clear and simple. Under present law, the only legal investments for the Fund are debt instruments. Debts are repaid in fixed sums of money. In times of inflation, the increase in value of the underlying property of a company belongs not to the debt holder but to the stockholder. Therefore, to offset inflation, the Fund needs to have a substantial part of its investments in the form of equity ownership.

There is another compelling reason for the Fund to hold common stocks and that is to share in the growth of the company and the country. With population increases in Alaska, the per capita value of the Permanent Fund can be increased by adding to the Fund's principal at a faster rate than the population growth. But this ability to add to the capital may not continue indefinitely. Furthermore, why turn down the opportunity to share in the economic growth of the companies whose securities are available for investment?

An obvious and legitimate concern in the expansion of the legal investment list is the matter of risk. There are three main types of risk to which the Fund management must address itself.

The first risk is the erosion of value through inflation. By confining the investments only to debt instruments, this risk is assured and devastating.

in market value than debt instruments. However, in recent years, bonds of both medium and long term have experienced as great a market risk. No one recommends that a large pension or endowment fund be concentrated entirely and permanently in short-term investments. The answer to this type of risk is to have a long-term outlook in investments--a patient capital approach. Statistical summaries for practically any ten year period selected, show a positive appreciation for equity investments.

The third risk is variability in rate of investment return. This should be of great concern to all interested in the performance of the Permanent Fund. Consistency of return will yield better long term results than a fluctuating return. Dependability in return is necessary for making budget forecasts by those who are designated to receive the income.

The factors which must be considered in this type of risk are varied and complex. However, modern portfolio management has learned to overcome such risk. Diversification of investment by security, issuer, industry and location is a useful tool. The impact of business cycles, interest movements and political changes can be dampened out by a proper mix of equity and fixed income securities in the portfolio. The risk in investment management is best countered by having a number of managers with their performance monitored by professional experts and their retention based on their results.

Changes by the Legislature in the investment guidelines for the Fund should be gradual and step by step. Fortunately, there exists a precedence in the investment authority for the Teachers Retirement System and the Public Employees Retirement System which is familiar to the Legislature. It appears that the investment criteria for these retirement funds could be flexible enough for a positive performance by the Permanent Fund.

It should be noted that the permission to the Retirement Funds to invest in gold is not desired for the Permanent Fund. The constitutional requirement for investments to be income producing would probably eliminate it anyway.

The proportions of the Fund to be invested in stocks should best be left to the discretion of the Board and will vary over years as the mix between equities and fixed income securities is determined to meet the objectives of the Fund.

The retirement funds of the state of Alaska allow real estate investment in national pooled funds. This would be the principal kind of real estate investment for the Permanent Fund. In the opinion of the writer, there are profitable and very safe investments that could be made directly in improved real estate on a selective basis. However, if there is any hesitation on the part of the Legislature to grant this kind of real estate investment authority, it could await further experience in the management of the Fund.

Permission to Reinvest Part of Investment Income of the Fund

The most important legislative change necessary to enable the Board to carry out its implied mandate to conserve the real principal of the Fund for future generations is to permit reinvestment of investment income. Investment in equities will help the Fund grow. But if a permission to invest in equities is granted, it need be coupled with a redefinition of income to include dividends and capital gains. Then, regardless of the rate of income, if all income is transferred to the Permanent Fund, the value of the Fund will inevitably decline in purchasing power and income.

To illustrate the point: If the Fund has $10 billion, earning 15%, and pays all of it out despite an inflation of, say 10%, in 30 years there would be a fall in real income from $1.5 billion to $86 million at the end.

Redefinition of income:

If equities are permitted for investment by the Fund, the income therefrom,--dividends, rents and capital gains and losses--must be netted out and included in that investment income. This is necessary to compute the true income of the investment and to yield the cash for purposes of distribution to beneficiaries as determined by the Legislature.

If this expanded definition of income is made in the existing law, it should be coupled with a change to charge all security losses to income as incurred. This would be in accordance with generally accepted principles of accounting.

Amount of income to retain in Fund.

The most effective way to retain income is for the Legislature to authorize

A portion of this income, say one-half, should be carried to surplus and permanently retained as part of the pincipal of the Fund. The resultant earnings would aid in the dollar growth of the Fund and help in part to offset inflation.

The other half can best be carried to a reserve, subject to appropriation by the Legislature. The decision as to how much to appropriate, and for what, can perhaps better be done later. A good argument can be made to not appropriate the entire half, but let inflation and investment results enter also in the picture.

The practice of the Harvard Management Company is helpful in this regard. This is a growing fund of approximately $1.7 billion at present. Income distribution is predicated on the anticipation that total investment return will be 8% annually on market value over the long term. 4% is distributed to University Departments and is used for planning purposes. The other 4% is retained for reinvestment. The actual earnings in most years have been higher and the excess of the distributable 4% goes into a stabilization reserve so as to meet the budgeted distribution rate. It should be noted that an 8% anticipated return on market value of investments is substantially more than on historical cost.

Elmer Rasmuson

Under present law:	TERM Inception	Expiration
First year of office of new Governor -		
Commissioner of Revenue	1983	Pleasure of Gov
Two other Commissioners	1983	"
One public member	1983	1986
Second year of office -		
One public member	1984	1987
Third year of office -		
One public member	1985	1988
Fourth year of office -		
No new appointment		

Result: Under present law, four of the six trustees are appointed by the incoming Governor within six months of his office.

Under proposed law: if approved at next legislative session:		
Governor Hammond would appoint -		
Commissioner of Revenue	1981	Pleasure of Gov
One public member (present term of Elmer Rasmuson)	1982	1986
New Governor would appoint in first year of office -		
Commissioner of Revenue	1983	Pleasure of Gov
One public member (present term of George Rogers)	1983	1987
Second year of office -		
One public member (present term of Peter McDowell)	1984	1988
Third year of office -		
One public member	1985	1989
Fourth year of office -		
One public member	1986	1990

Stability consequences of proposed legislation:

1. None of the terms of the present public members would be abridged.

2. Governor Hammond would maintain his right to have the Commissioner of Revenue on the Board, and his present authority to appoint a public member in 1982 would not be changed.

3. The three public members appointed by Governor Hammond would continue into the administration of the succeeding Governor.

4. The incoming Governor would have the right to appoint his Commissioner of

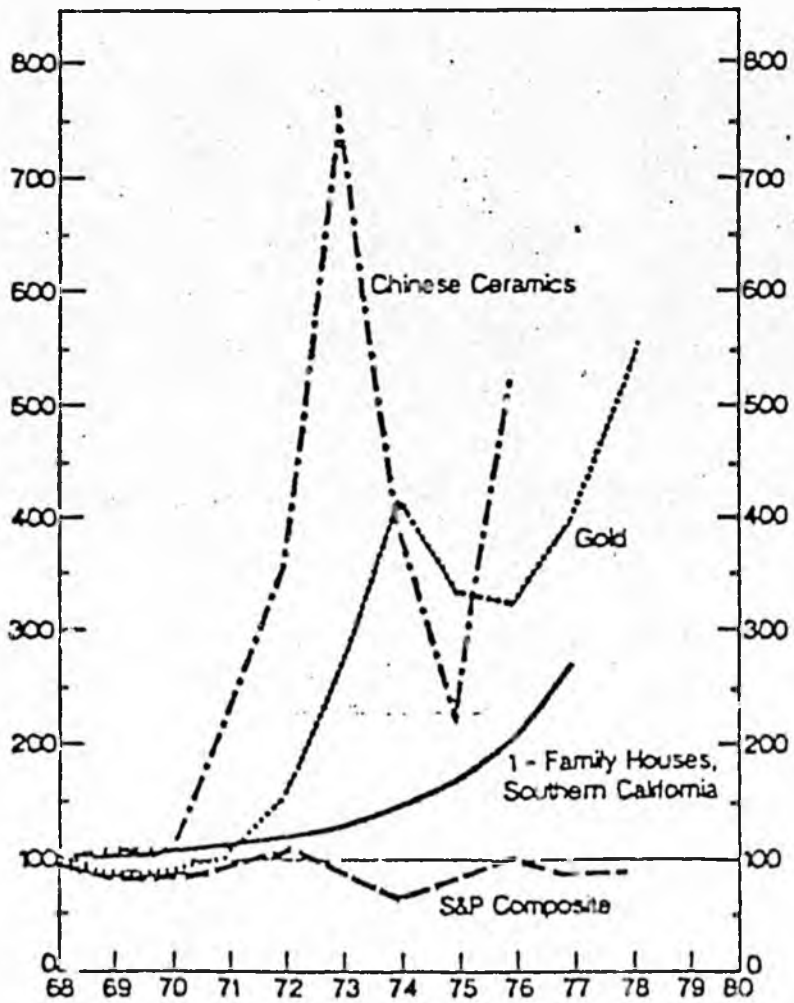
ALLIANCE CAPITAL MANAGEMENT CORPORATION

INFLATION IMPACT

	1975-1979	9 Mos. 1980
Consumer Price Index	47.9%	9.3%
Standard & Poors 500	99.9	21.0
Alliance Equity Fund Composite	141.1	28.0

FIGURE IV

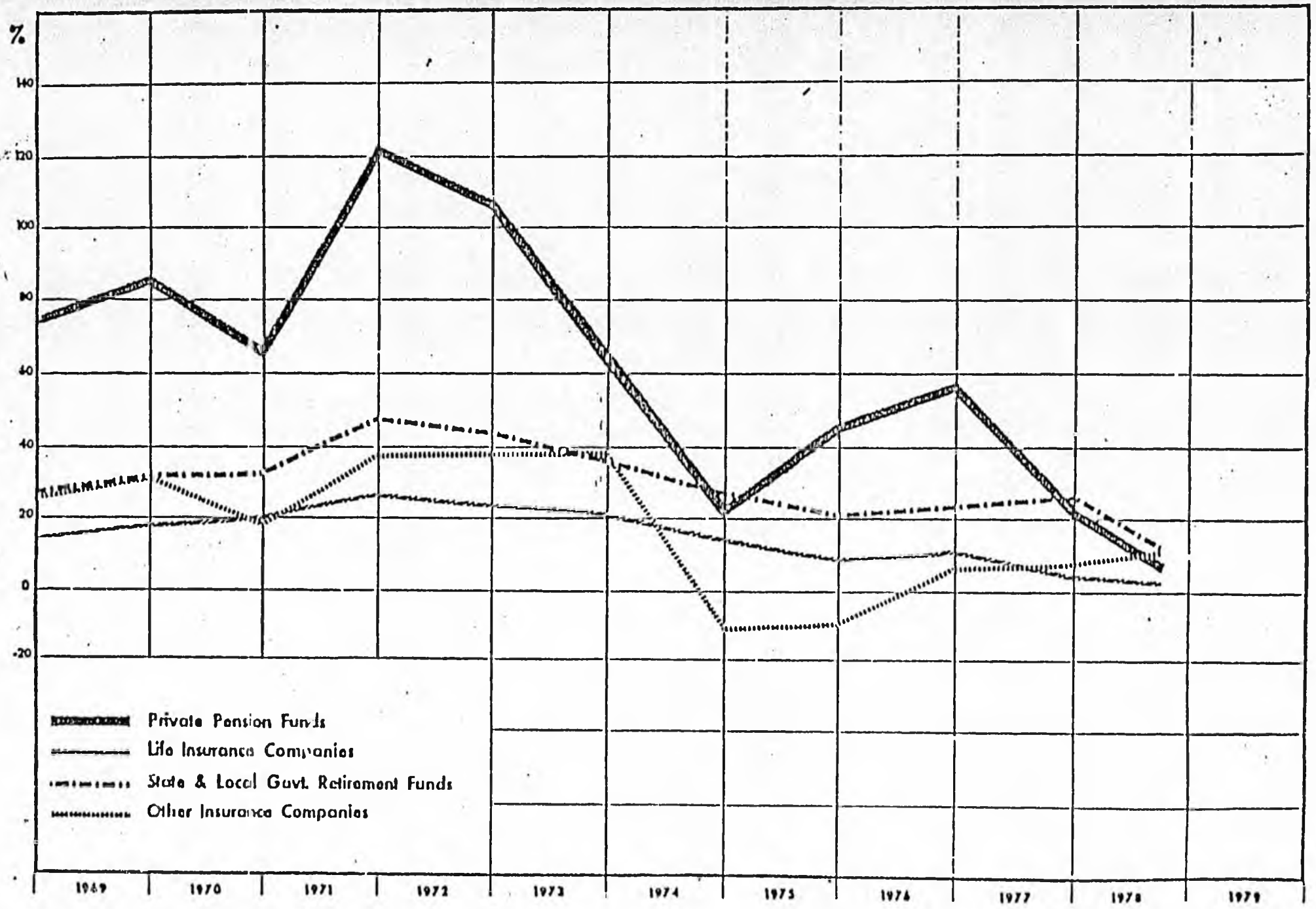
MOVEMENT OF TANGIBLE ASSET INDICES
1968=100



Source: Lehman Brothers Kuhn Loeb Research, Commodity Research Bureau, Real Estate Research Council of Southern California, Sotheby's and Parke-Bernet.

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	1978
Gold	100	84	90	104	155	268	417	336	322	395	541
Year to Year % Change		-16	7	16	49	73	55	-19	-4	23	45
Chinese Ceramics	100	110	111	229	359	762	391	223	530	N/A	N/A
Year to Year % Change		10	1	106	57	112	-49	-43	137	N/A	N/A
1-Family Homes So. Cal.	100	105	109	114	119	128	146	168	205	267	N/A
Year to Year % Change		5	4	4	5	8	14	15	22	30	N/A
S&P Composite	100	86	85	93	110	89	63	83	98	88	90
Year to Year % Change		-14	-1	10	18	-19	-29	32	18	-10	2

Net Purchases of Equities as a Percentage of Cash Flow



Goldman Sachs Research

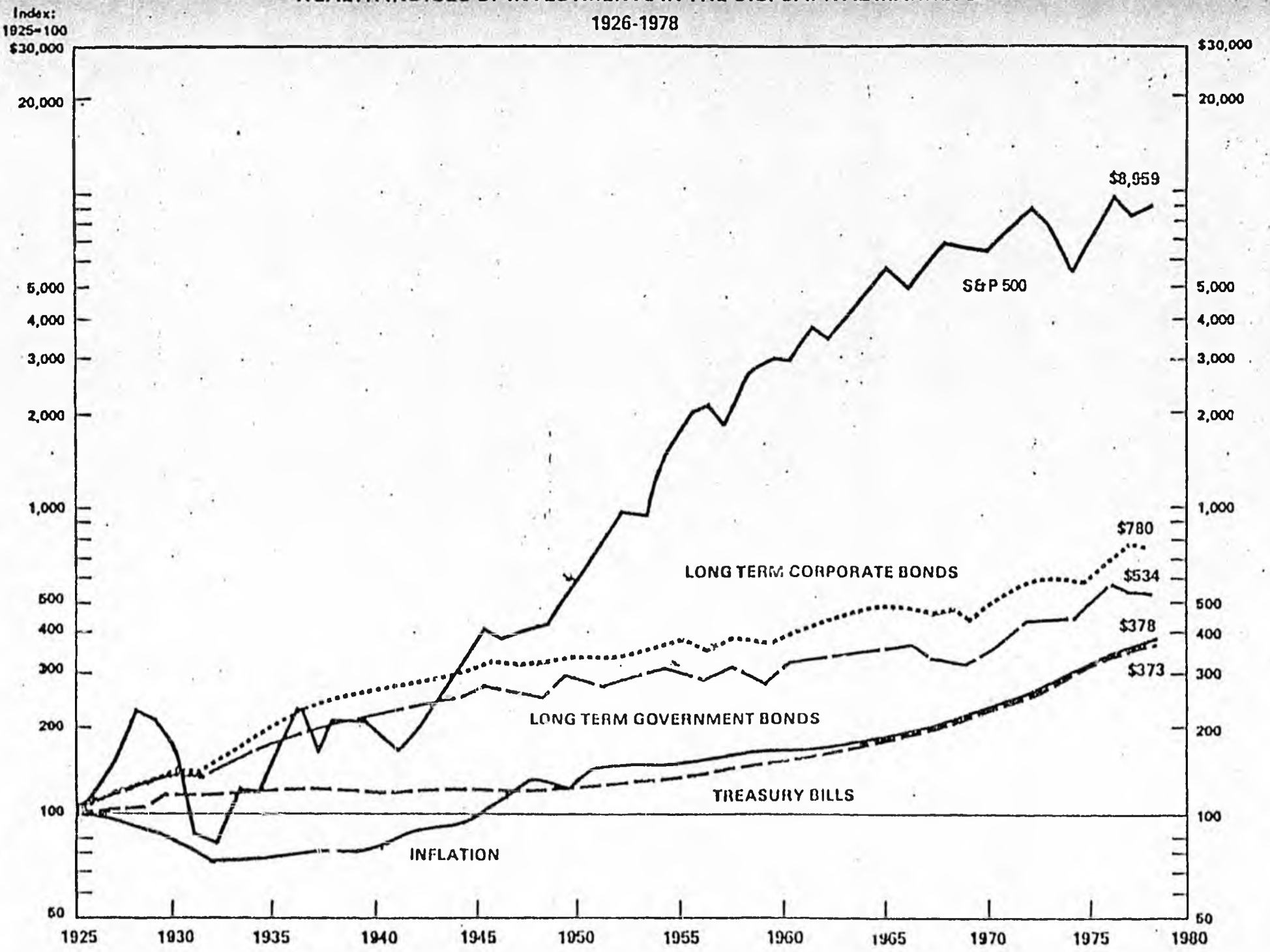
STOCKS, BONDS, RISK FREE ASSETS & INFLATION

COMPOUND GROWTH RATES: 1926 - 1979

	NOMINAL	REAL
COMMON STOCKS (S & P 500)	9.0%	6.1%
LONG-TERM CORPORATE BONDS	3.8%	1.0%
TREASURY BILLS	2.7%	(0.1%)
INFLATION	2.7%	----

Source: Ibbotsen-Sinquefield

WEALTH INDICES OF INVESTMENTS IN THE U.S. CAPITAL MARKETS
1926-1978



Prepared by Alliance Capital Management Corporation based upon data presented in Stocks, Bonds, Bills and Inflation: The Past (1926-1976) and The Future (1977-2000) published in 1977 by the Financial Analysts Research Foundation.

THE CASE FOR EURODOLLAR DEPOSITS AND C. D.s

Eurodollar time deposits and Eurodollar certificates of deposit are time deposits denominated in U. S. dollars and accepted or issued by the London branches of major European, United States, Canadian, and Japanese commercial banks as well as the international subsidiaries of United Kingdom clearing banks. The Eurodollar deposit and C. D. markets grew rapidly in the 1960's in response to measures taken by the United States to restrict the outflow of dollars. Significant growth is also attributable to the tight money periods of 1966 and 1969 when short term rates in the United States rose above the maximums U. S. commercial banks could pay on domestic time deposits in accordance with Regulation Q. This forced U. S. banks to borrow heavily from their branches abroad where interest rates were not regulated.

As the result of recurrent balance of payments problems during the 1960's, such foreign investment controls as the Interest Equalization Tax, Voluntary Foreign Credit Restraint Guidelines, and Overseas Foreign Direct Investment Regulations were instituted. Although these controls effectively closed the U. S. capital markets to foreign borrowers and prevented U. S. firms from transferring capital abroad, they contributed significantly to the development of an active market for U. S. dollars on deposit outside the U. S. In early 1974, these control programs were all eliminated. Many observers thought that the Eurodollar market as a result would disappear. However, since no reserve requirements were levied on these deposits, the continued growth of the Eurodollar market was assured. The lack of reserve requirements enabled banks to pay higher interest on deposits while at the same time charging a lower rate on loans and still to increase profits. The volume of outstanding Eurodollar negotiable C. D.s continued to grow to its present size of approximately $32 billion while the much larger Eurodollar deposit market has grown to an estimated $425 billion.

Most Eurodollar negotiable C. D.s are issued with maturities up to one year by prime international banks. Banks usually quote rates for three, six, and twelve month maturities, corresponding to their loan rollover requirements, rather than for all maturities as in the United States. U. S. purchasers of Eurodollar C. D.s include commercial bank portfolios and trust departments, corporations, insurance companies and various other institutions. In addition, a large number of foreign entities are active participants in the Eurodollar C. D. market. Investors generally receive an additional 1/8 to 1/4% in yield over domestic C. D.s of the same issuer and maturity while a holder of a non-negotiable Eurodollar time deposit normally picks up still an additional 1/8 to 1/4%. These spreads may change as the result of the recent (November 13, 1980) requirement that U. S. and foreign agency banks hold 3% reserves against their net balances due to foreign branches. It is still too early to determine what the likely impact of this reserve requirement on the Eurodollar markets will be.

Many investment bankers and commercial banks actively trade Eurodollar C. D.s providing liquidity to these investment instruments. The standard trading units are multiples of $1,000,000. The trading volume of Eurodollar

C. D.s has grown steadily from a monthly average turnover of about $2.1 billion in 1974 to more than $12 billion in mid-1979 with trades of $20 to $25 million not uncommon. Trading activity in the market is influenced not only by normal seasonal pressures affecting the domestic C. D. market but also by periodic loan rollover pressure and foreign exchange developments which may have a significant impact on rates, thereby presenting opportunities for the investor.

With regard to credit risk, the deposits are general obligations of the issuing bank under the laws of England where they are issued and payable. Holders of these deposits are creditors of the entire bank and not just the issuing branch. If a branch failed to pay a C. D. because of insolvency, it could be enforced against the head office of the bank. A depositor or C. D. holder could be negatively affected by government action in two ways. One would be an action of the English government such as its imposition of currency controls or interest limitations and the other would be by the action of the bank's head office. This could take the form of modification or termination of the issuing bank's liability regardless of where the holder sought payment. The chances of such governmental action are viewed as highly unlikely.

Yields of Three and Six Month-Eurodollar Certificates of Deposit and their Yield Spreads above U.S. Prime Certificates of Deposit

First of Month	Yields-Eurodollar C.D. Three Month	Yields-Eurodollar C.D. Six Month	Yield Spreads-Euro $ vs. U.S. C.D.s (In Basis Points) Three Month	Yield Spreads-Euro $ vs. U.S. C.D.s (In Basis Points) Six Month
1974-Jan.	10.00%	10.00%	+ 80	+150
Apr.	9.81	9.81	+ 6	+ 51
July	13.31	13.31	+121	+151
Oct.	11.69	11.75	+ 89	+105
1975-Jan.	9.63	9.44	+ 53	+ 74
Apr.	6.56	6.94	+ 46	+ 54
July	6.50	7.00	+ 20	+ 30
Oct.	7.63	8.25	+ 53	+ 20
1976-Jan.	5.63	6.25	+ 13	+ 30
Apr.	5.31	5.88	+ 11	+ 28
July	5.88	6.50	+ 14	+ 30
Oct.	5.56	5.75	+ 21	+ 25
1977-Jan.	4.88	5.00	+ 23	+ 20
Apr.	5.06	5.31	+ 16	+ 16
July	5.63	5.81	+ 25	+ 21
Oct.	6.69	6.94	+ 29	+ 24
1978-Jan.	7.00	7.25	+ 20	+ 25
Apr.	7.20	7.50	+ 35	+ 20
July	8.35	8.70	+ 25	+ 15
Oct.	8.30	9.60	+ 40	+ 35
1979-Jan.	11.45	12.00	+ 55	+ 50
Apr.	10.35	10.62	+ 35	+ 32
July	10.40	10.38	+ 60	+ 51

Volume Outstanding of U.S. and Eurodollar Certificates of Deposit
and Secondary Market Turnover of Eurodollar Certificates of Deposit
(Billions of U.S. Dollars)

Mid-month (Approx.)	U.S. C.D.s Total Outstanding (1)	Eurodollar C.D.s Total Outstanding (2)	Eurodollar C.D.s Secondary Market Turnover (3)
1974-Jan.	65.6	11.1	2.3
Apr.	71.8	13.7	2.0
July	83.0	13.0	1.4
Oct.	88.7	12.5	2.6
1975-Jan.	91.4	11.6	3.3
Apr.	85.2	11.2	2.2
July	80.9	11.8	2.1
Oct.	83.3	12.4	3.7
1976-Jan.	79.1	13.3	5.1
Apr.	69.9	14.1	4.6
July	69.5	14.9	5.0
Oct.	64.6	15.7	5.4
1977-Jan.	62.8	15.9	6.2
Apr.	59.9	17.0	5.7
July	62.5	19.0	6.3
Oct.	68.5	21.7	6.1
1978-Jan.	75.8	21.9	7.4
April	80.7	21.9	7.5
July	87.3	22.0	4.7
Oct.	90.0	23.5	6.8
1979-Jan.	96.5	27.5	11.6
Apr.	86.5	28.1	9.3
July	79.3	32.2	12.4

REAL ESTATE INVESTMENT MARKET
& REAL ESTATE EQUITY POOLS

Until the early 1960's the real estate investment market in the United States was primarily controlled by the real estate developer and the small investor or investor group. There were few large real estate projects and those that were built were either financed or owned by one of a few insurance companies purchasing for their own investment account. Industrial property was usually owned by the corporate user or leased from local investors. The market place was highly fragmented and very much an activity at the local level. Developers had small organizations and essentially seat-of-the pants entrepreneurs.

The 1960's saw an explosive demand for manufacturing warehousing, retail, commercial and office facilities. The larger industrial and office park concepts were created and the increasing demand for capital led most corporations to a leasing posture. This was appropriate for warehousing and office facilities as a way to conserve capital for business and as a strategy which allowed reaction to changing markets. Family formation growth led to rapid residential suburban growth and as residental developments grew so did retail and commercial developments. The shopping center grew from infancy to maturity as regional enclosed mall centers creating a mini-downtown which had a major impact on residential and commercial growth patterns. During this period a very few pension funds began to acquire industrial and commercial properties for investment. At the same time, more insurance companies began to add properties to their investment portfolios. The institutional real estate investment market began to take on the characteristics of a regional and in some cases a national market.

As we moved into the 1970's real estate projects increased rapidly in size and complexity demanding a broader range of professional skills. The size of real estate development organizations expanded to handle regional as well as national areas as well as a national market.

The 1974-1976 recession dampened much corporate involvement in real estate but the demand and growth for investment grade real estate product remained intense. Demand for pension fund real estate investments during the latter part of the 1970's drove down the current cash return on investments. Appreciation in value and rapidly rising rental rates created even more demand as real estate appeared attractive as an alternative pension investment vehicle.

As we move into the 1980's, commercial and industrial grade real estate will become more and more an institutional market. The long term mortgage market is likely to see a radical change necessitating substantial equity to be raised for larger real estate projects. This will squeeze the smaller developers or will force them to sell or joint venture their projects with institutions and pension funds. The very large development projects will become exclusively an institutional and pension fund market.

Consequently, the demand for real estate facilities from the user side is currently very strong and promises to remain so during the 1980's and beyond. The demand for quality investment grade real estate by institutions and pension funds will be even stronger. This will predictably result in lower current returns and stretched out

periods to realize long term return on investment objectives. The demand from both the user and investor side combined with the effects of inflation and government regulations will continue to push real estate up at a substantial rate. Commercial and industrial real estate investments should continue to provide superior long-term returns on investments.

In the last 10 years many trust, pools or funds have been established to participate in the advantages of real estate investments. They consisted of larger mortgage companies, banks, brokerage houses and insurance companies to name a few. Insurance companies led the way since in many cases they had been involved in real estate lending or purchasing for their portfolio for the past 100 years or longer.

Real estate is not a passive investment. It is a highly complicated field requiring creative ability, qualitative as well as quantitative analysis, and most of all experience. Owned real estate has its own risk parameters quite different from those of other investments. Once purchased, it has to be managed properly. Real Estate is susceptible to vacancies, demographic change, imbalance of income to expenses, and overbuilding to name a few. Major insurance companies have the expertise as well as offices all over the country, and this is a major advantage not available to most other managers. Real Estate pools offer protection against downside risk due to vacancies or rapidly escalating operating costs. Prudently selected and maintained Real Estate can be considered a viable supplement to other portions of a portfolio.

Funds accepted for real estate pools are limited to the properties available for purchase in any given period. You advise them of your intention to join and give them an indication of the amount you would like to deposit. They will accept your funds on a quarterly basis only, and then only if they have sufficient properties in line for purchase the following quarter. They will not guarantee acceptance of your funds in a specified time frame. They will not purchase unqualified properties just because funds are available.

Just as it is sometimes difficult to get in a real estate pool, it also takes time to withdraw. It must be realized that real estate investments are relatively illiquid and should be considered long term investments. They will not force sell a property just because you want to withdraw your funds. Most pools require 90 days written notice prior to any quarterly date. This allows them time to find other investors who want to invest in the pool, thus allowing you to withdraw. However, if cash available in the pool is sufficient to allow your withdrawl earlier, they will honor your request.

We're sure everyone will agree that any investment portfolio, pension fund or permanent fund in this case, should have the ability to diversify its investments. We have all witnessed the ups and downs in stock and bond markets over the years. Good real estate on the other hand on average has always increased in value. Investment decision makers have finally been convinced that real estate deserves a place in a well diversified portfolio. We believe that the current trend toward real estate as a major investment asset is both justified and of growing importance.

Many investment managers have been aware of the advantages of real estate investing but were discouraged from participating in real estate due to the lack of liquidity and risk characteristics associated with outright ownership. Real estate pool investments are designed to overcome these problems. Pool investment offers well managed diversification characteristics tailored to meet the risk to expected return and liquidity requirements of participants. The pools offer the investment advantages of a portfolio of high quality real estate, diversified by property type, lease term, tenant type and geographic location, combining a potential for capital appreciation with an attractive level of current income.

That last sentence says it all and deserves expanding upon:

Advantages

Real Estate equity pools are designed to deliver all of the advantages investors seek from real estate, without the complexities of outright ownership.

Return Potential

Over the years, carefully selected real estate has demonstrated a consistent ability to produce attractive yields.

Inflation Hedge

A rapid increase in real estate values has become increasingly evident in recent years as escalating construction costs have exerted upward pressure on the replacement cost of commercial and industrial properties. An attractive hedge against inflation.

Portfolio Diversification

Real estate assets produce very positive diversification characteristics when introduced into the typical portfolio of stocks, bonds, mortgages and money market investments to name a few.

A real estate pool also provides diversification of property types such as shopping centers, apartment and office buildings, motels, hotels, industrial and warehouse buildings, etc. Geographic diversification is provided through purchases of property from coast to coast including Alaska.

As more and more investors become aware of the advantages of diversification and returns available on these pools, the demand has been increasing. With this demand there has been an increasing number of pools going on line, which makes good real estate investments harder to find.

The better real estate pools do not speculate as Real Estate Investment Trusts (REIT's) did back in the late sixties and early seventies. Real Estate Investment Trusts began in 1960 when Congress passed the Real Estate Investment Trust Act.

The purpose was to provide more capital to satisfy the growing demand for long term investment money by opening the field to individual investors. The mortgage type REIT created the surge of popularity between 1969-71. Underwriters encouraged banks and others to establish trusts because the shares were easily sold and good fees were to be made. The REIT's borrowed heavily from banks and others to support their demand for more money to lend construction and development projects. Serious problems began to surface in 1974 when the prime rate soared past 12% and some construction loans reached 18% to 20%. Many could not pay and projects could not be completed and many failures resulted. Insurance company pools do not sell shares to the public, do not get involved in development projects until completed, and best of all do not borrow money to purchase real estate investments.

The insurance companies described on the following pages, in our opinion, are among the best in the industry. Other pools are available, some managed by non insurance companies, and other insurance companies also have pools. We presently have retirement systems funds in the pools with companies used as examples.

PRUDENTIAL INSURANCE COMPANY OF AMERICA

Prudential is the largest private real estate investor in the United States. As of June 1980 their estate investment department employed a professional staff of almost 500 persons located in Prudential Corporate Headquarters and 71 field offices in the United States and Canada. They manage nearly $18 billion of real estate investments, including $14 billion in mortgages, $3 billion in wholly owned properties and over $1 billion in joint ventures throughout the United States.

Because of their nationwide structure, the real estate department has established direct working relationships with regional and national real estate developers, brokers, managers, and investors. These relationships allow Purdential to consider property opportunities on a national basis.

Prudential Property Investment Separate Account (PRISA)
($2 billion) Annual Historical Performance

Year Ending	Gross Return	Net Return	Breakdown of Net Return	
			Income	Appreciation
12-31-79	25.4%	23.9%	8.8%	15.1%
12-31-78	20.9	19.5	9.0	10.5
12-31-77	12.0	10.7	7.8	2.9
12-31-76	9.8	8.5	7.5	1.0
12-31-75	9.5	8.3	7.0	1.3

Geographical Location

As of 6/30/80-%	Regions (30 States)
22%	West
20%	South
18%	Mid-West
40%	East

Property Diversification

39%	Office Buildings
23%	Industrial Buildings
16%	Hotels & Motels
19%	Shopping Centers
3%	Apartments

AETNA LIFE INSURANCE COMPANY

Aetna's Real Estate Department has been in operation for over 100 years, and in the last 10 years has established an equity unit responsible for buying and managing equity real estate. Aetna's real estate and mortgage portfolio exceeds $5 billion. The real estate department is comprised of 130 employees with a variety of backgrounds in real estate. The department utilizes both correspondents and direct lending capabilities. They are affiliated with over 85 mortgage bankers in major metropolitan areas who are under contract to produce real estate and mortgage investments. Their internal National Accounts unit deals directly with major real estate development companies which operate on a national basis.

Aetna Real Estate Separate Account
($300 MM) Annual Historical Performance

	Yield	Appreciation	Total Return
Jan.-Dec., 1978	7.73%	.82%	8.55%
Jan.-Dec., 1979	9.03%	3.54%	12.57%

Geographic Distribution

As of 6/30/80-%	Regions
30%	Rockies
16%	South
18%	Mid West
3%	East
33%	West

Property Diversification

45%	Retail Buildings
2%	Land
20%	Office Buildings
19%	Industrial
14%	Warehouse Buildings

JOHN HANCOCK MUTUAL LIFE INSURANCE COMPANY

The John Hancock's Real Estate Department has been in existence for over 100 years and currently manages a portfolio of commercial and agricultural real estate and mortgages of all types in excess of $4 billion. In addition to a staff of in-house professionals including 50 mortgage investment officers, they have advisory and origination capability from a network of 58 mortgage banking firms and their branch offices located in major metropolitan cities from coast to coast. They also have eight agricultural loan agencies in the major farm areas of the country, and maintain extensive contact with major property developers as well as the mortgage and real estate brokerage community.

($350 MM) Equity Real Estate Account (ERA)
Annual Historical Performance

	Yield	Appreciation	Total* Return
Jan. - Dec., 1977	9.1%	1.2%	10.3%
Jan. - Dec., 1978	9.3	2.5	11.8
Jan. - Dec., 1979	10.2	8.8	19.0

Geographic Distribution

As of 6/30/80-%	7 Regions (21 States)
11%	New England
13%	Middle Atlantic
15%	Southeast
30%	Midwest
5%	Southcentral
13%	Mountain/Southwest
13%	Pacific

Property Diversification

32%	Industrial Buildings
8%	Hotel
28%	Warehouse Buildings
13%	Office Buildings
17%	Shopping Centers
3%	Retail Stores

EQUITABLE LIFE ASSURANCE COMPANY

Equitable's Real Estate Department has been in operation for over 115 years and has been involved in equity real estate ownership and management for over 25 years with over $3 billion under management. The real estate department presently has a staff of over 500 full-time real estate professionals. The department utilizes both correspondents and direct lending capabilities with their own nationwide network of 40 offices. They are also the investment advisor to Equitable Life Mortgage and Realty Investors, a Boston based real estate investment trust listed on the New York Stock Exchange.

Equitable's Equity Real Estate Account
($1 billion) Annual Historical Performance

Year Ending	Yield	Appreciation	Total Return
12-31-75	9.8%	(2.2%)	7.6%
12-31-76	8.7%	1.5%	10.2%
12-31-77	9.1%	2.2%	11.3%
12-31-78	9.2%	4.7%	13.9%
12-31-79	9.3%	5.5%	14.8%

Geographic Distribution

As of 6/30/80-%	Regions
32%	Southern
29%	Central
15%	Western
14%	Mid-Atlantic
10%	Northeastern

Property Diversification

64%	Retail
16%	Office
15%	Industrial
2%	Hotels
2%	Land

PERFORMANCE FIGURES - POOLED REAL ESTATE ACCOUNTS

INVESTMENT RETURN NET OF INVESTMENT FEES

YEAR	INSURANCE COMPANY			
Ending 12/31:	Prudential PRISA	Aetna	John Hancock	Equitable
1979	23.9%	12.6%	17.8%	13.9%
1978	19.5	8.6	10.8	14.4
1977	10.7	--	9.3	10.0
1976	8.5	--	--	8.9
1975	8.3	--	--	6.3
Assets at Market 12/79 (000)	$1,493.70	$184.75	$180.02	$903.09

THE CASE FOR INTERNATIONAL DIVERSIFICATION

International diversification of an investment portfolio can provide four benefits: reduction in the volatility of the portfolio; an increase in the return; an increase in the marketability of the portfolio as a whole; and protection against an unexpectedly high rate of inflation in the United States..

1. Protection from Inflation

Diversification into markets of different countries with different economic cycles and different rates of inflation reduces the risk that an entire portfolio will show a low real rate of return. The return of the international element of the portfolio will not be impaired by an unexpectedly high level of inflation in the United States. Indeed it will tend to benefit since the growth of the inflation differential is likely to be reflected in exchange rates so that overseas holdings will rise in terms of the United States dollar. A rise in the exchange rate of the United States dollar might lead, on the other hand, to the returns on overseas investments not matching those on United States investments. Any fall in the United States rate of inflation would, however, be highly beneficial to the performance of United States investments. Since the proportion invested in overseas markets would likely be relatively small, the overall performance of a portfolio with 90 per cent invested in the United States and 10 per cent in overseas markets would still be quite satisfactory during this period of low domestic inflation. International diversification protects the assets of a fund in that it provides a higher return on overseas securities at the time it is most needed - when the rate of domestic inflation is unexpectedly high.

2. Reduced Volatility

The prices of different shares in any one market tend to move fairly closely together, but the correlation between share price movements in different markets is low.

Correlation coefficients between United States and Foreign Stock Markets 1970-1979.

United States	1.00
United Kingdom	.54
Japan	.52
Germany	.51
France	.48
Hong Kong	.45

One study has indicated that the reduction in volatility for the period 1959 to 1979 for a portfolio with 90 per cent invested in the Standard & Poor's Composite Index and 10 per cent equally divided among the equity markets of France, Germany, Japan, and the United Kingdom (as represented by the Capital International Index for each of these markets) from the volatility of a portfolio invested wholly in the Standard & Poor's Composite Index would have been nearly half that which would have been obtained by holding 10 per cent of the portfolio in cash equivalents. International diversification thus leads to a substantial reduction in volatility.

3. Greater Return

The rate of return in the years 1959 to 1979 was generally greater in the major markets outside North America than in the United States. A study made by InterSec Research Corporation shows the rates of return achieved by investment in the Capital International Indices of the markets of Canada, France, Germany, Japan, and the United Kingdom and in the Standard & Poor's Composite Index in the United States over four periods (1959 to 1979, 1965 to 1979, 1970 to 1979, and 1974 to 1979), after taking account of dividend yield and adjusting for fluctuations in exchange rates. The returns in every period were higher in each of the overseas markets than in the United States except in the case of the French market in the longest period. The rate of return of a portfolio divided equally among the four markets outside North America would have been higher by about 70 per cent in the first period, 150 per cent in the second period, 160 per cent in the third period and 85 per cent in the final period. The investment of even a small proportion of a United States portfolio in international markets would, therefore, have resulted in a significant increase in the return of the whole portfolio.

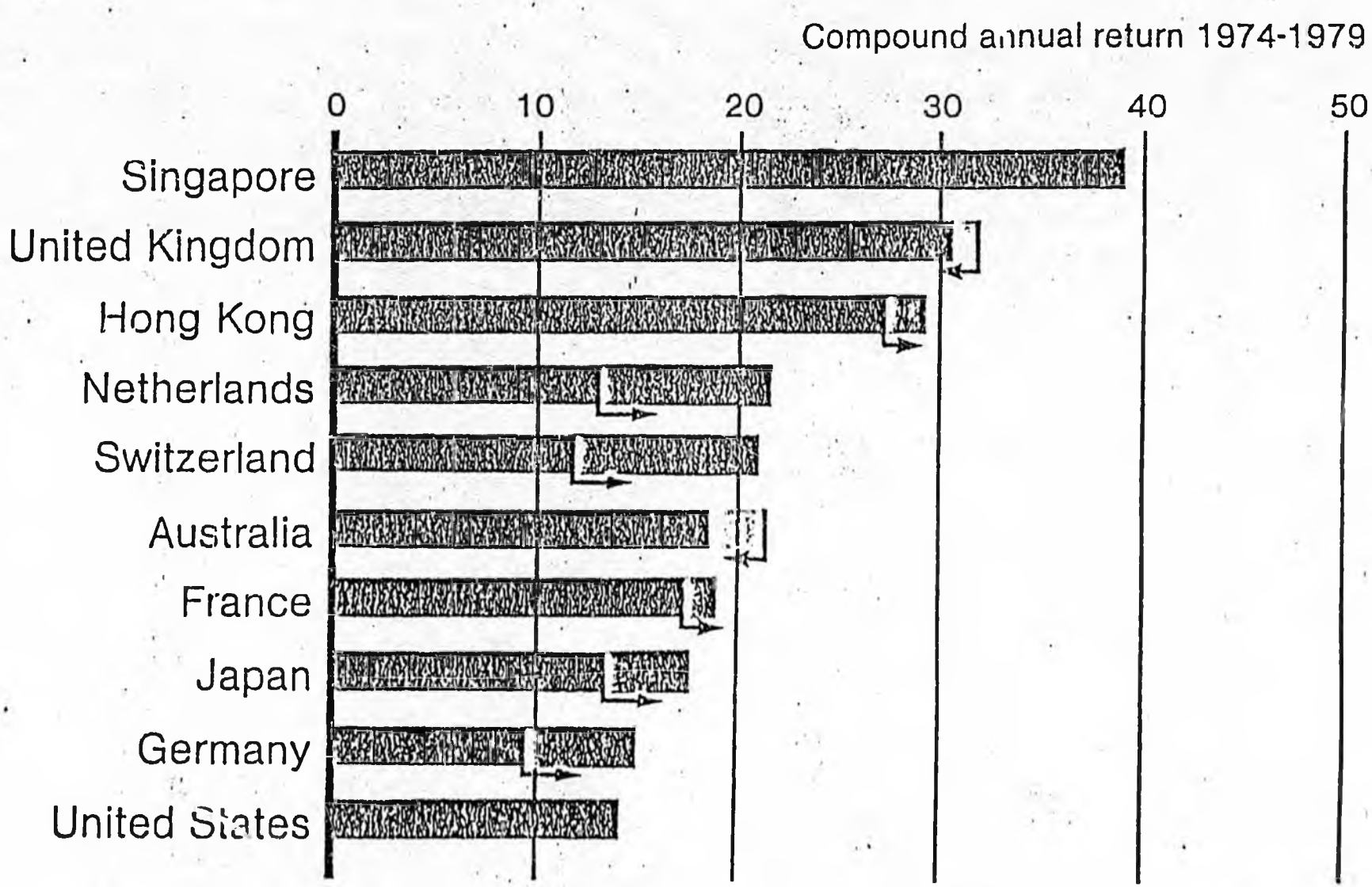
4. Increased Marketability

Capital International has published figures for turnover in 1979 in 14 stock markets in Europe and the Far East. Turnover in these 14 markets amounted to $220.7 billion, over 86 per cent of the turnover of the United States and Canadian equity markets in the same year. Capital International has also published figures for the market capitalization of equities on 16 stock exchanges outside North America. At the end of 1979 the total amounted to $755 billion, almost 71 per cent of the combined market capitalizations of the United States and Canadian stock markets at that time. The size of markets outside North America is thus considerable, and turnover forms a larger proportion of market capitalization in them, taken as a whole, than in North America. Moreover, there were 127 companies listed on these 16 markets outside North America with a market capitalization which was greater than that of the 200th largest listed United States company at the end of 1979. There is thus considerable opportunity for large scale investment in markets outside the United States and Canada.

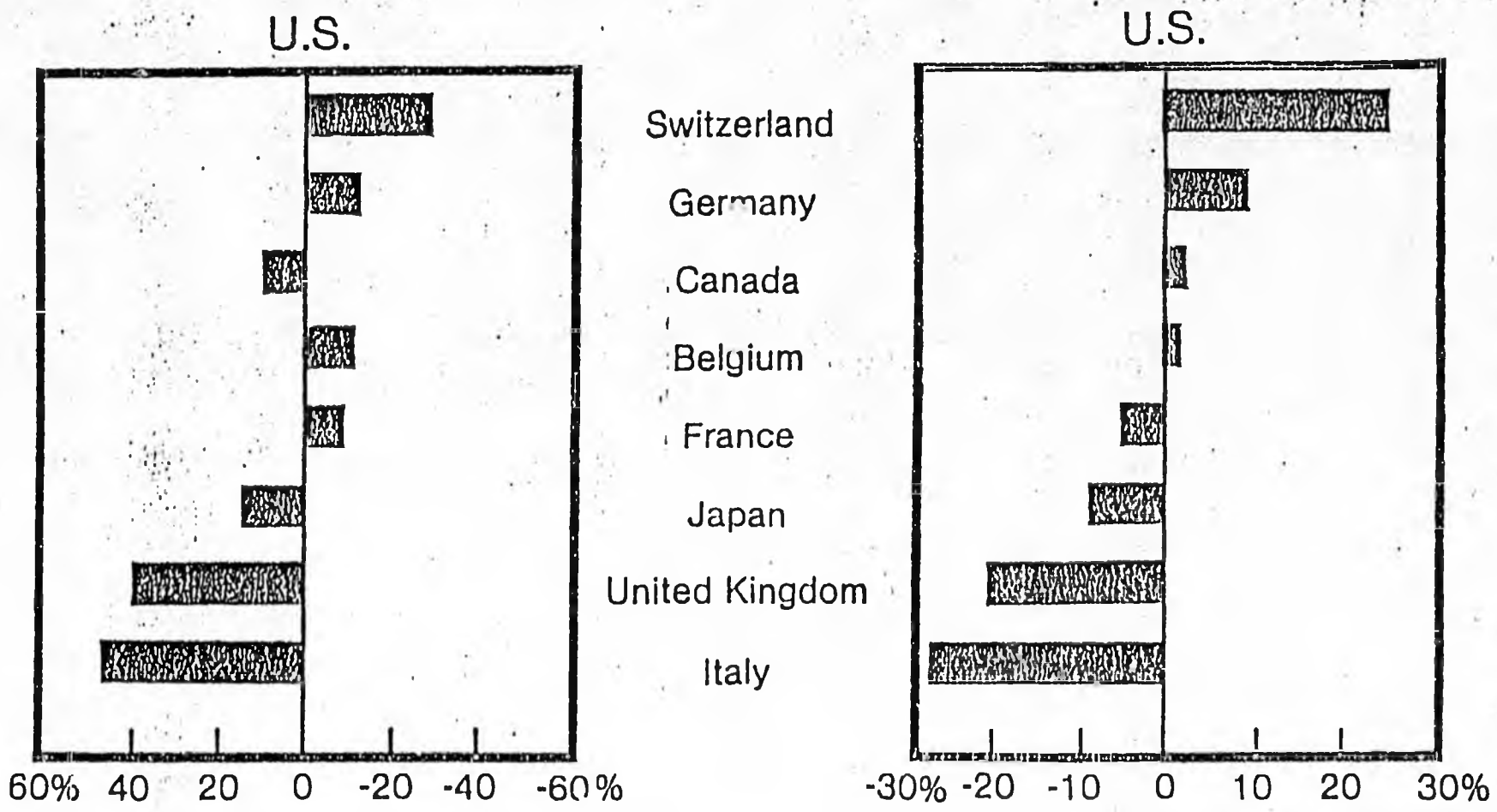
5. Investment in International Bond Markets

The total capitalization of the Eurobond market and the nine national bond markets of Australia, Denmark, France, Germany, Japan, the Netherlands, Sweden, Switzerland, and the United Kingdom at the end of 1979 was about $1,414 billion. By comparison, the taxable bond market in the United States had an estimated capitalization of about $1,400 billion and that of Canada a capitalization of about $105 billion. The large size of international bond markets provides United States investors with a further means of benefiting from international diversification, but with a lower degree of volatility than that involved in equity investment.

Some return comes from currency exchange rate changes.

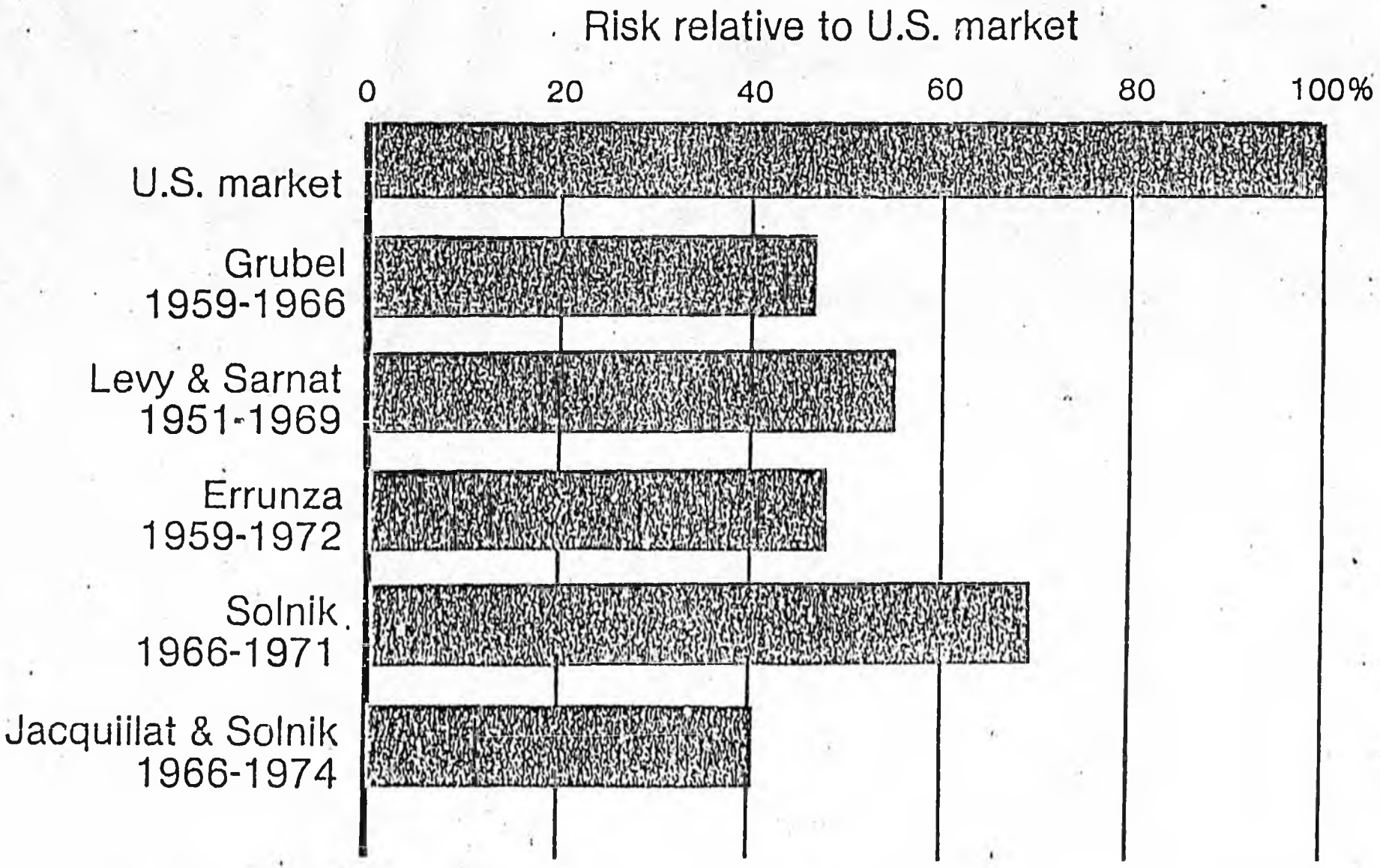


Currency exchange rates (longer term) depend on differences in inflation rates.

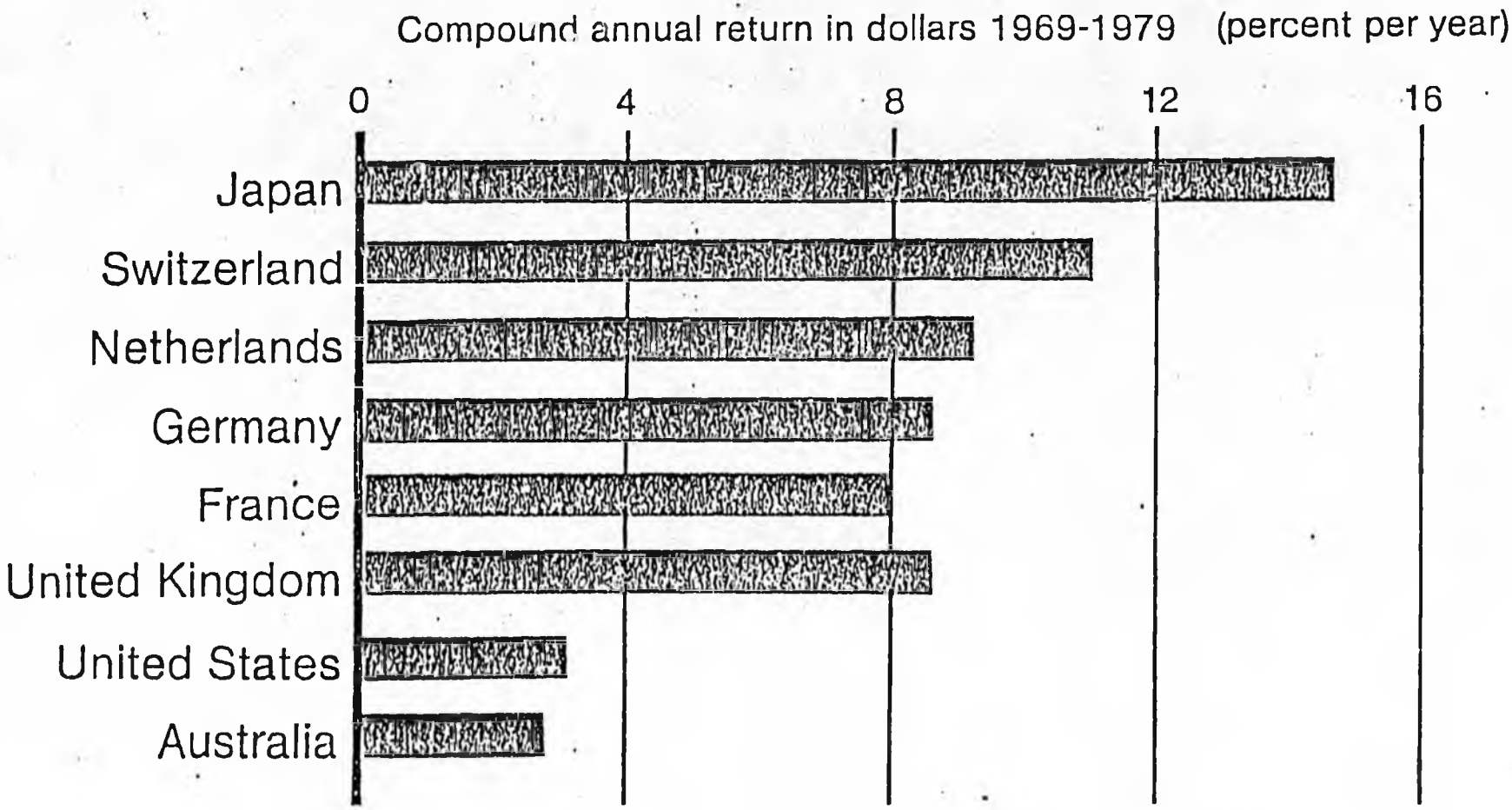


Source: Kemp Period: March 1973-December 1976

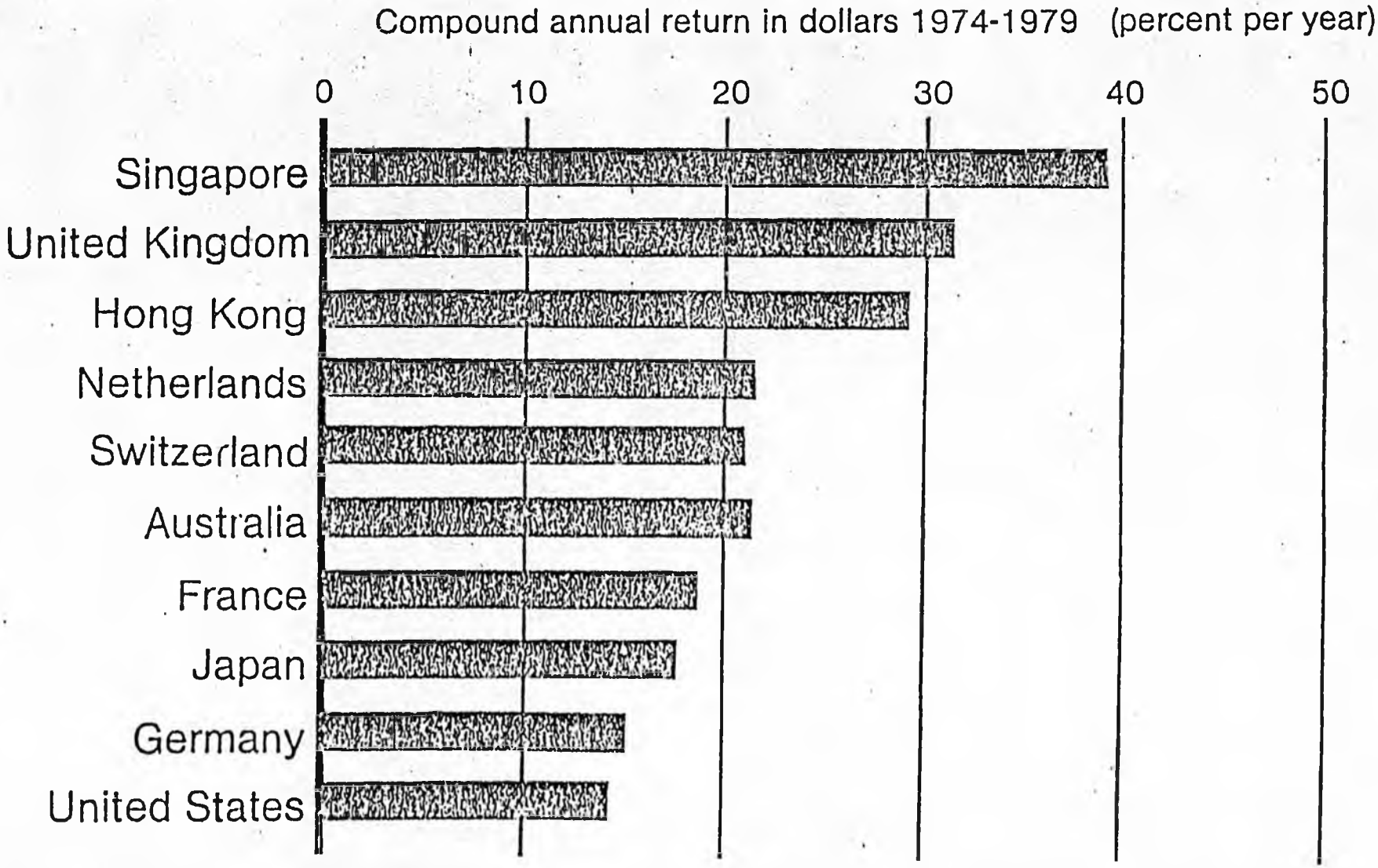
Studies show that international diversification reduces risk substantially.



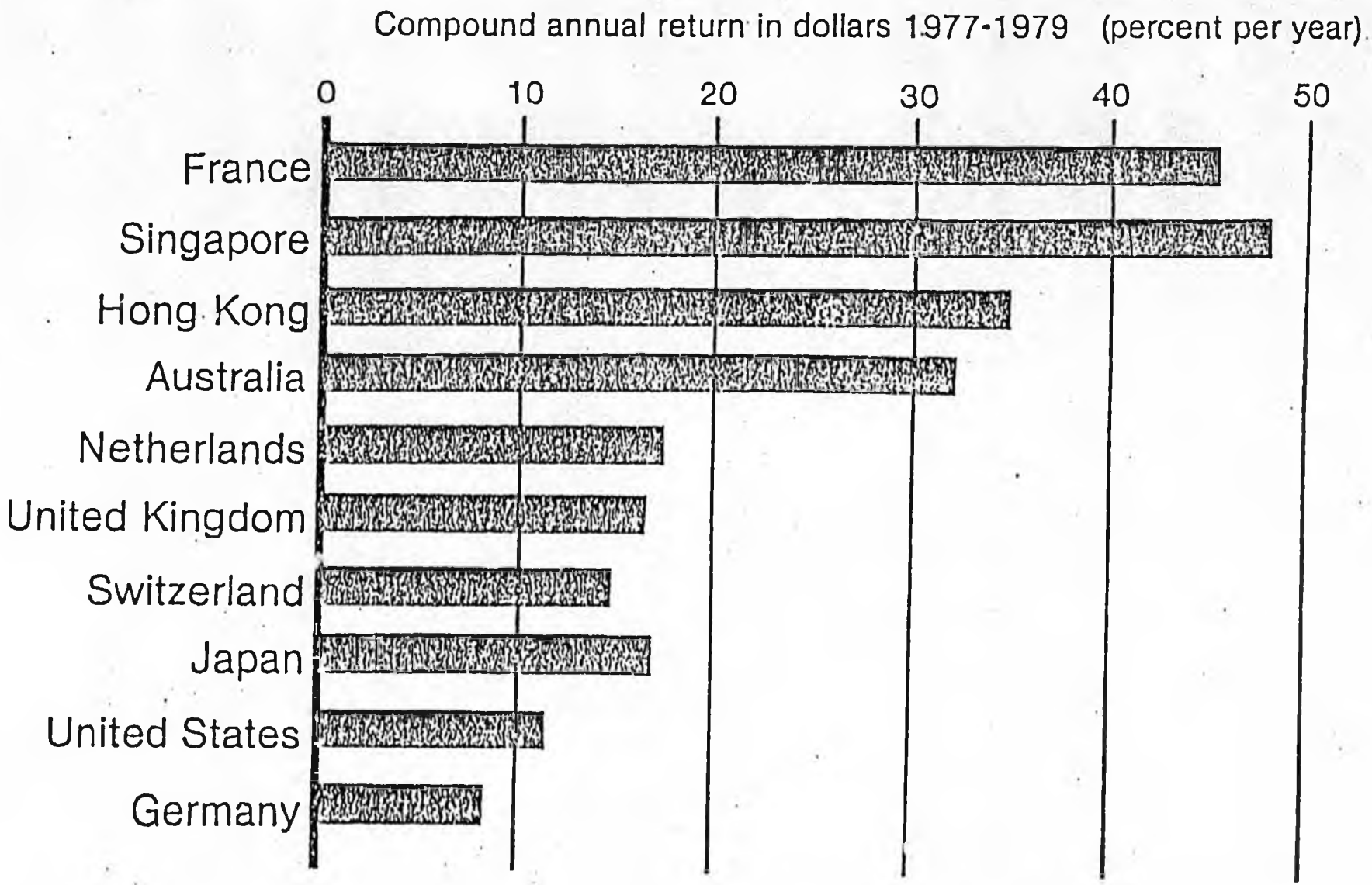
Foreign markets have shown better returns than the U.S. market for the past ten years.



Foreign markets have shown better returns than the U.S. market for the past five years.



Foreign markets have shown better returns than the U.S. market for the past two years.



INTERSEC RESEARCH CORP.
Registered Investment Advisers

Consultants on International Diversification
for Pension Managers

TOTAL RETURNS ON INVESTMENT FROM MAJOR WORLD STOCK MARKETS

BEFORE AND AFTER U.S. INFLATION FOR THE FIVE YEARS 1974-'78+

	TOTAL RETURNS LOCAL CURRENCY	TOTAL RETURNS U.S. $ TERMS	INFLATION in U.S.	TOTAL RETURNS AFTER U.S. INFLATION
U.S.	4.29	4.29	7.94	-3.38
Japan	9.48	17.72		-9.06
U.K.	14.54	11.61		3.40
Germany	11.85	21.04		12.14
France	6.70	10.13		2.03
Switzerland	1.37	16.84		8.25
Australia	9.92	4.44		-3.24
Canada	5.40	1.93		-5.57
EAFE*		12.11		3.86

*Europe, Australia, Far East Indices of sixteen markets, weighted according to their size. Prepared by Capital International, Geneva.
+ percent per annum, compounded.

122 East 42nd Street, New York, N.Y. 10017, Telephone: (212) 697-8303 Telex: 428552

INTERSEC RESEARCH CORP.
Registered Investment Advisers

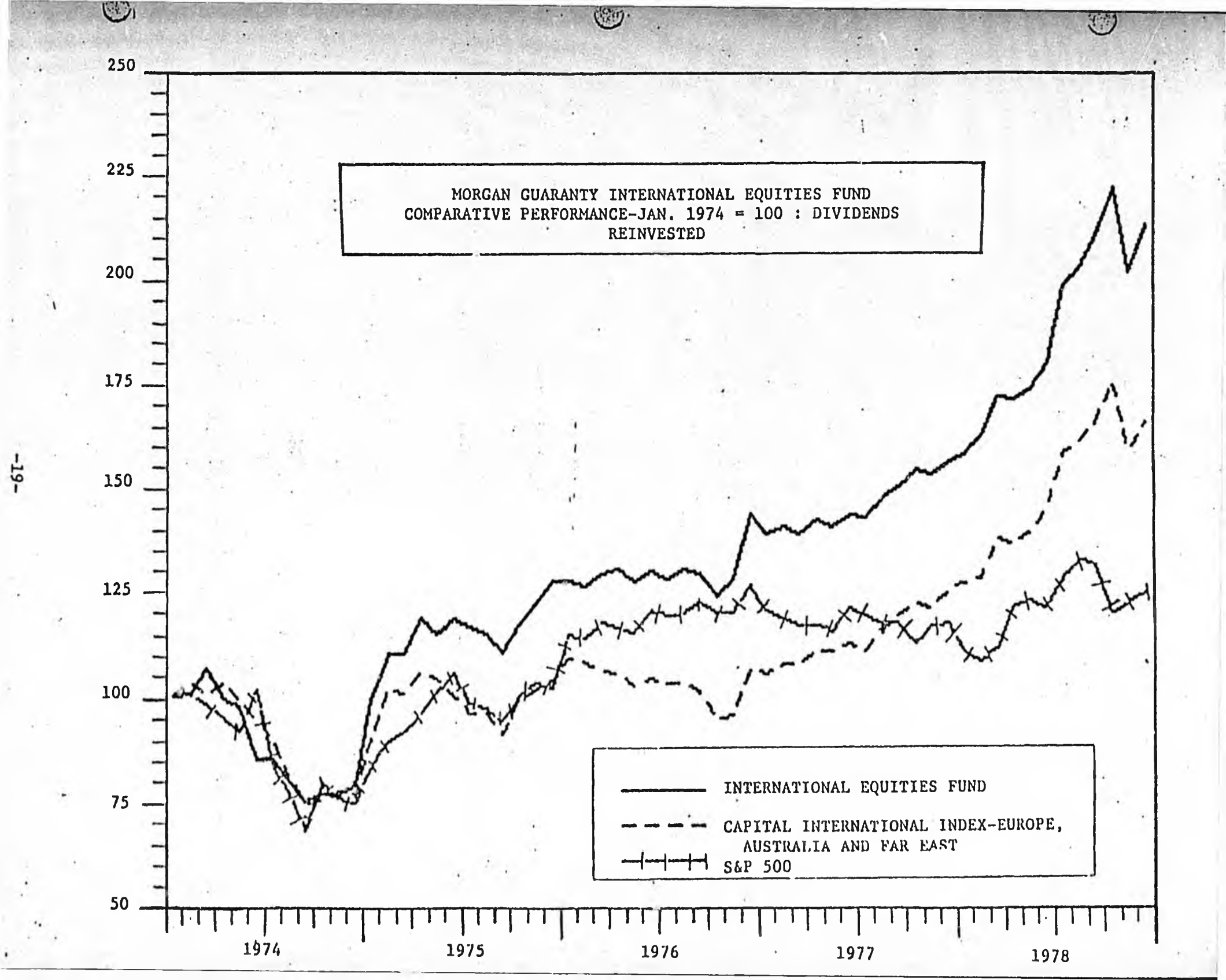
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TOTAL RETURNS ON INVESTMENT FROM MAJOR WORLD STOCK MARKETS
BEFORE AND AFTER U.S. INFLATION FOR THE THREE YEARS 1976-'78+

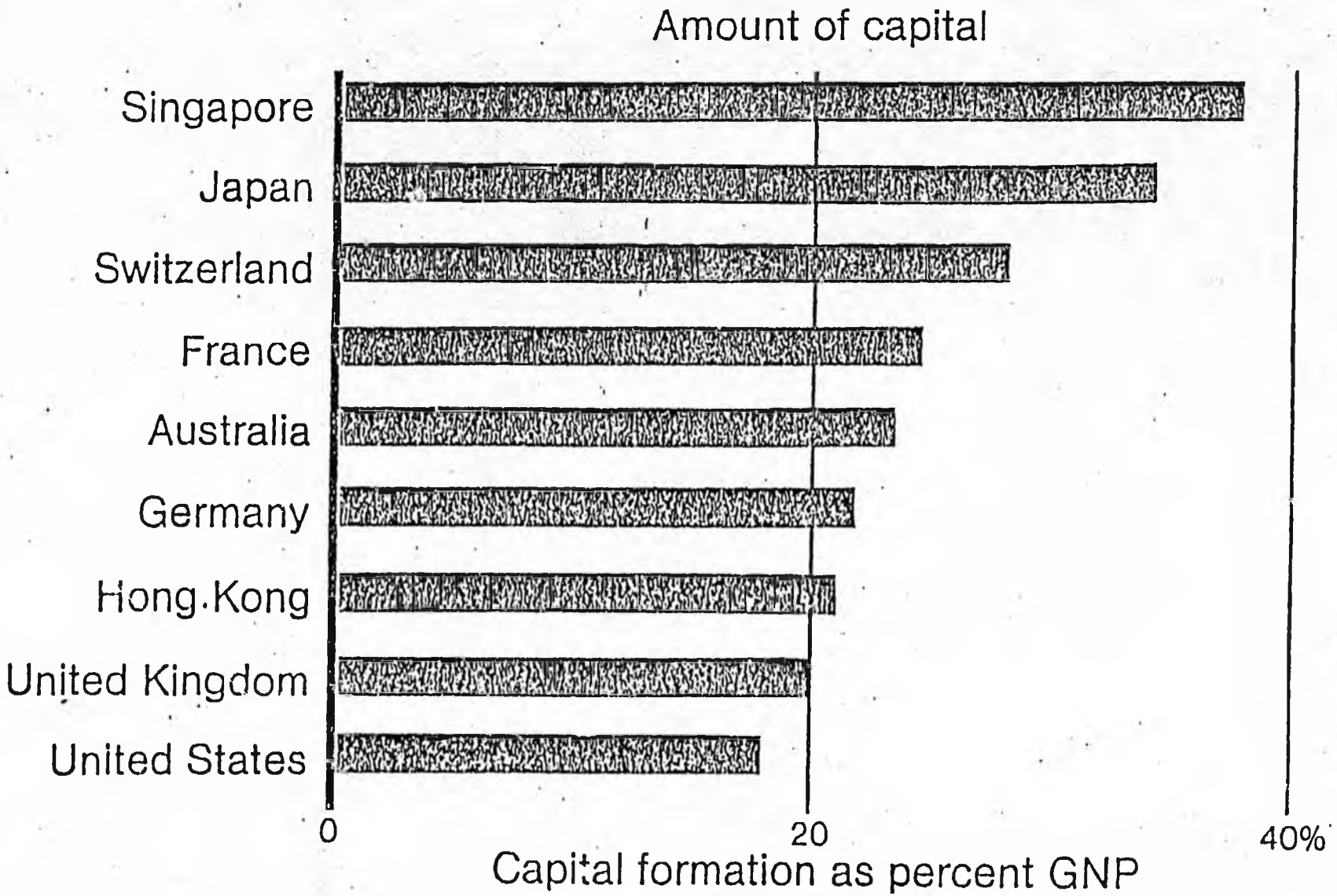
	TOTAL RETURNS LOCAL CURRENCY	TOTAL RETURNS U.S. $ TERMS	INFLATION in U.S.	TOTAL RETURNS AFTER U.S. INFLATION
U.S.	6.92	6.92	6.86	.06
Japan	24.49	30.73		22.33
U.K.	17.12	17.42		9.88
Germany	3.82	19.49		11.82
France	10.28	12.93		5.68
Switzerland	2.34	20.76		13.00
Australia	10.31	7.16		0.28
Canada	14.77	9.13		2.12
EAFE*		18.39		10.79

*Europe, Australia, Far East Indices of sixteen markets, weighted according to their size. Prepared by Capital International, Geneva.
+ percent per annum, compounded.

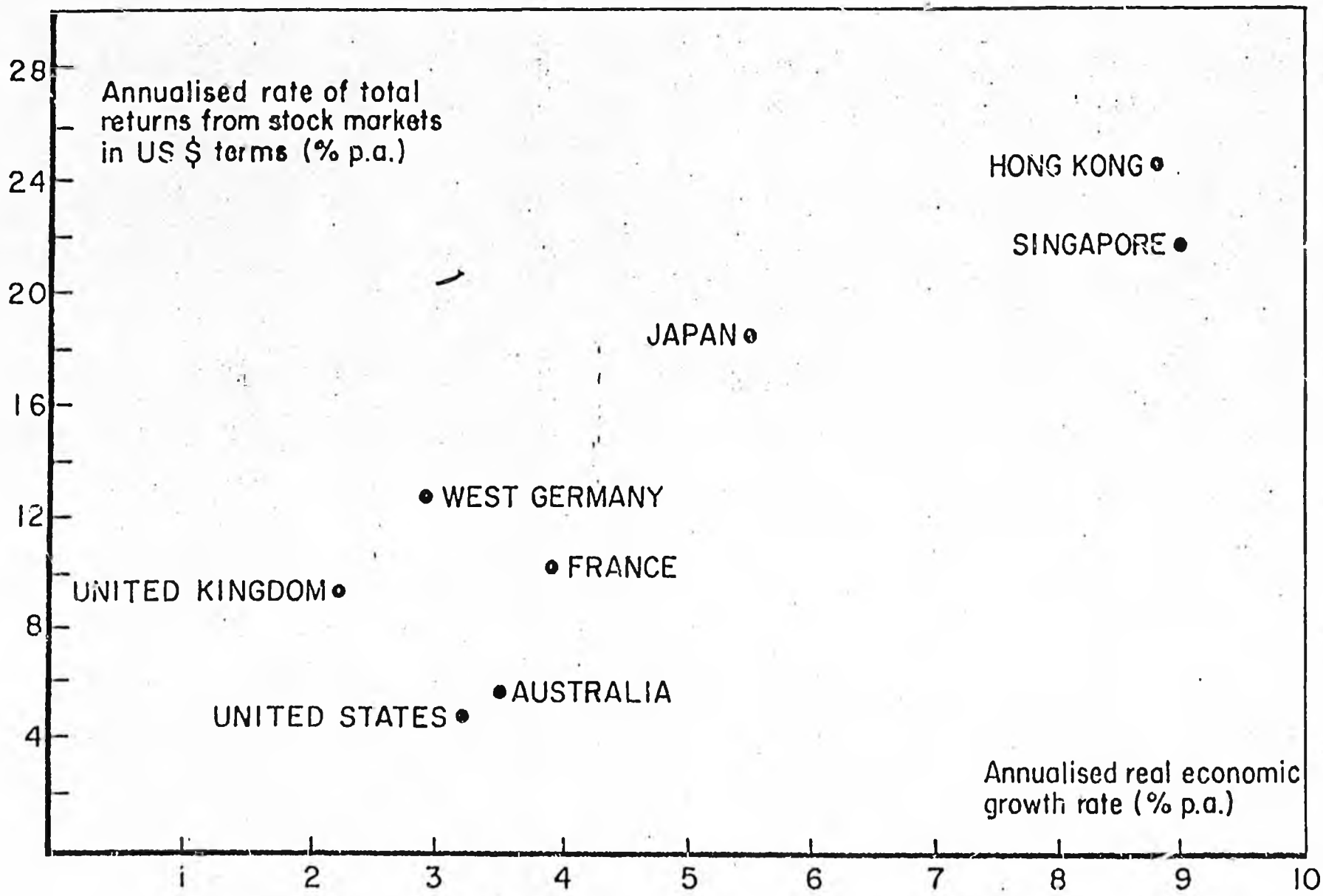
122 East 42nd Street, New York, N.Y. 10017, Telephone: (212) 697-8303 Telex: 428552


MORGAN GUARANTY INTERNATIONAL EQUITIES FUND
COMPARATIVE PERFORMANCE-JAN. 1974 = 100 : DIVIDENDS
REINVESTED
250
225
200
175
150
125
100
75
50
1974
1975
1976
1977
1978
INTERNATIONAL EQUITIES FUND
CAPITAL INTERNATIONAL INDEX-EUROPE,
AUSTRALIA AND FAR EAST
S&P 500

Greater capital formation in foreign countries leads to greater economic growth.



I. RELATION BETWEEN REAL ECONOMIC GROWTH AND STOCK MARKET RETURNS 1970–1979

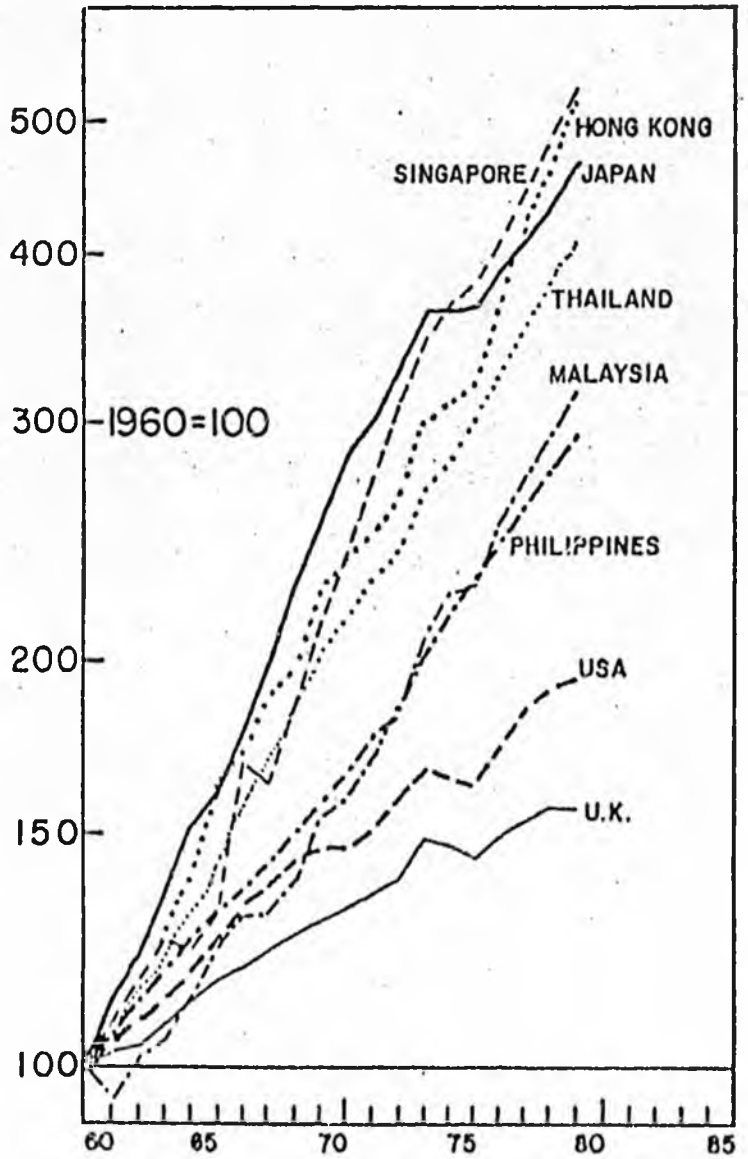


IV. PROSPECTS FOR PROSPERITY IN THE 1980's

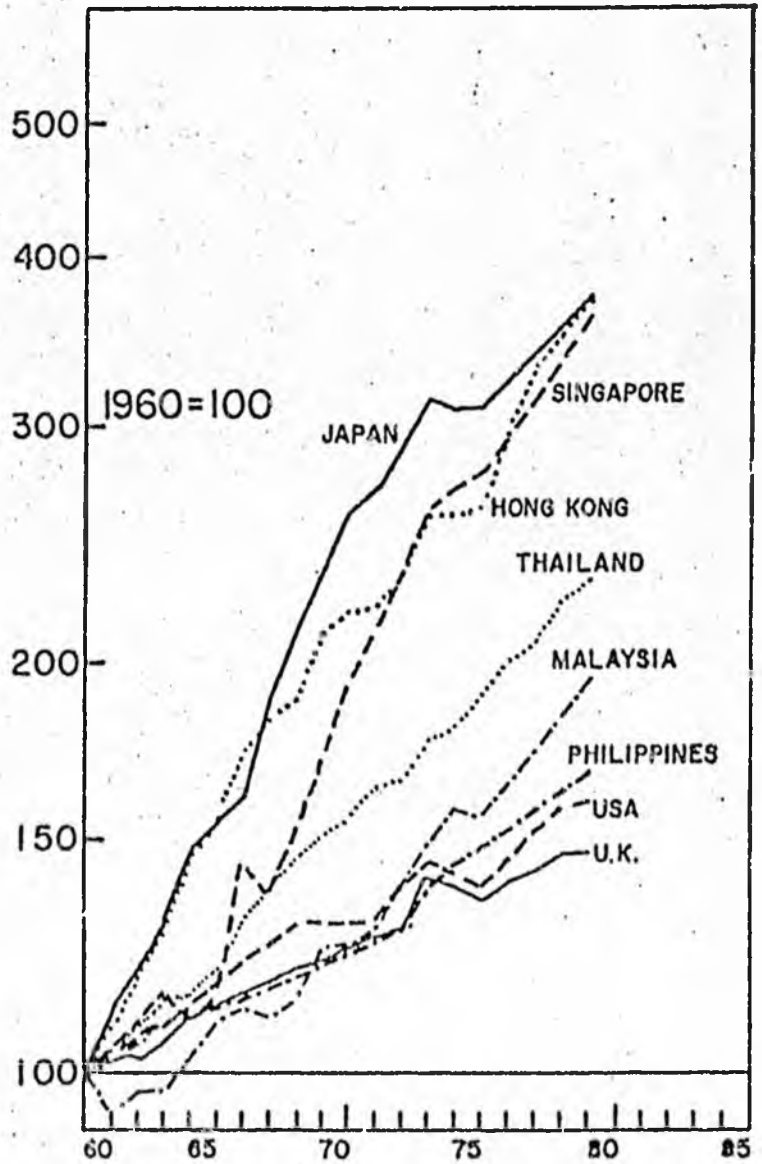
GOVERNMENT CONSUMPTION AS OF GNP IN 1978		SAVINGS RATE IN 1977		PRIVATE FIXED CAPITAL FORMATION AS % OF GNP IN 1978	
UNITED STATES	20.5	JAPAN	21.5	SINGAPORE	22.9
UNITED KINGDOM	20.2	FRANCE	16.1	WEST GERMANY	22.9
WEST GERMANY	20.0	WEST GERMANY	14.0	JAPAN	20.4
AUSTRALIA	16.9	UNITED KINGDOM	13.9	HONG KONG	18.2
FRANCE	15.3	UNITED STATES	5.1	UNITED STATES	15.5
SINGAPORE	11			AUSTRALIA	14.1
JAPAN	9.5			UNITED KINGDOM	9.7
HONG KONG	6.0	Not Available: Australia, Hong Kong, Singapore		Not Available: France	

IV ECONOMIC PROGRESS IN THE FAR EAST

GROSS DOMESTIC PRODUCT GROWTH IN ASIA



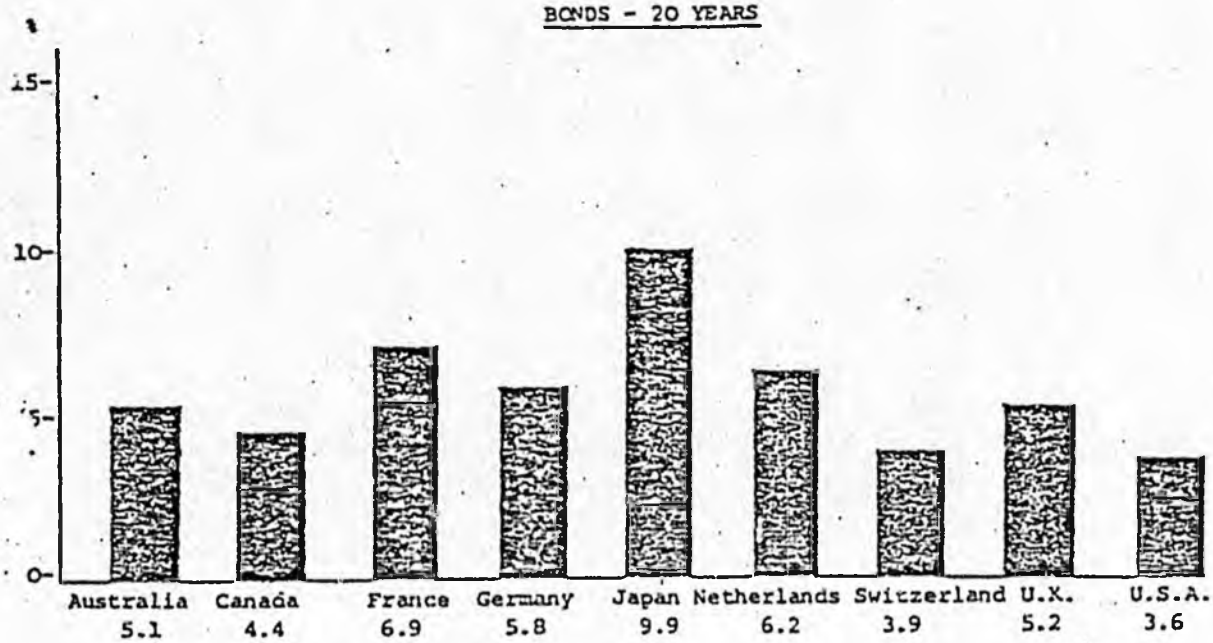
REAL PER CAPITA GDP IN ASIA



Average Annual Rates of Total Return
Bond Markets - No Currency Adjustment

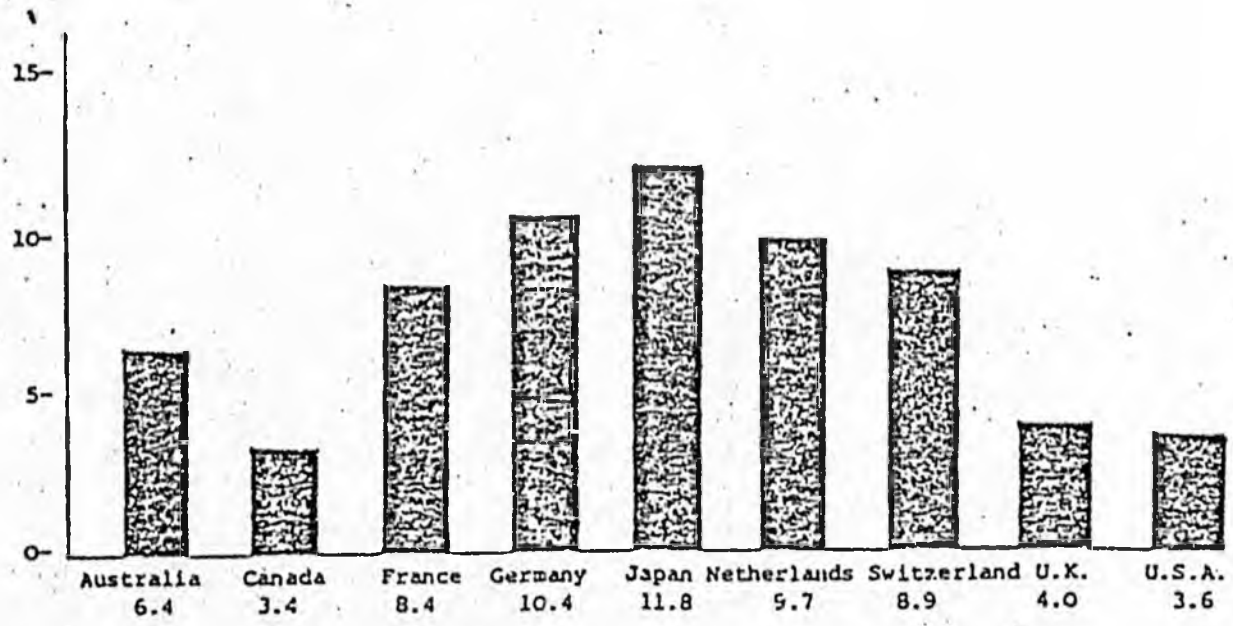
1960-1979

BONDS - 20 YEARS



Average Annual Rates of Total Return
Bond Markets - Adjusted for Currency Movements Relative to Dollar

1960-1979

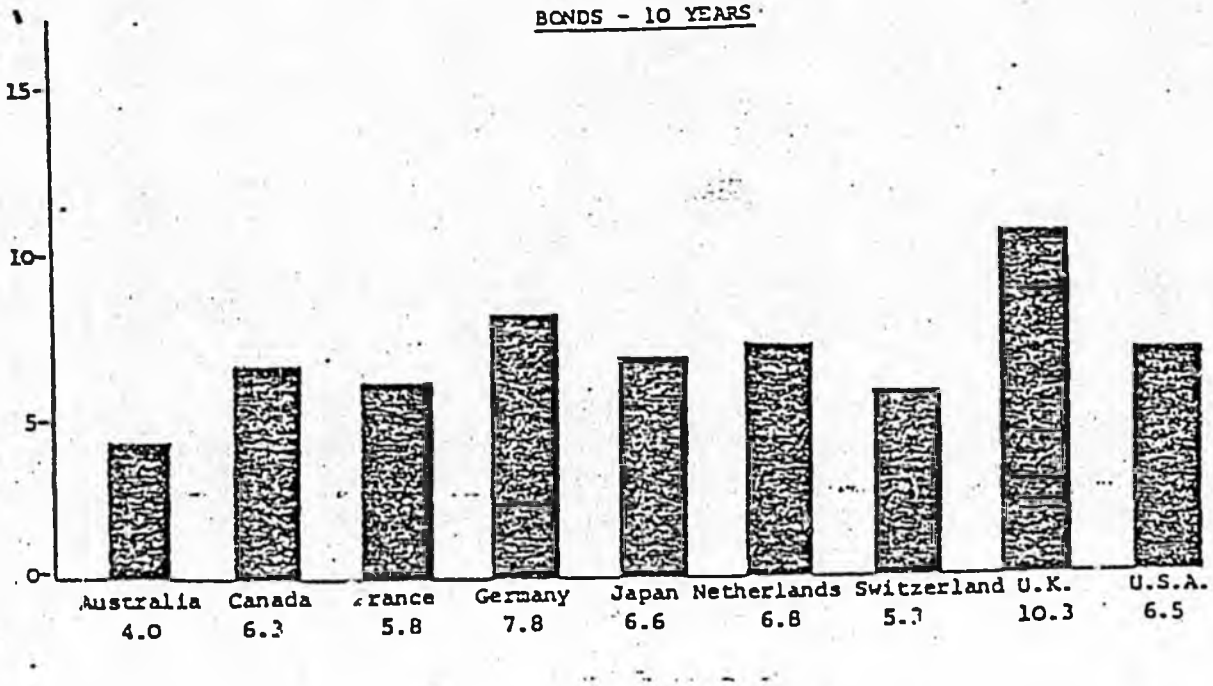


Source: Kleinwort, Benson Ltd., London

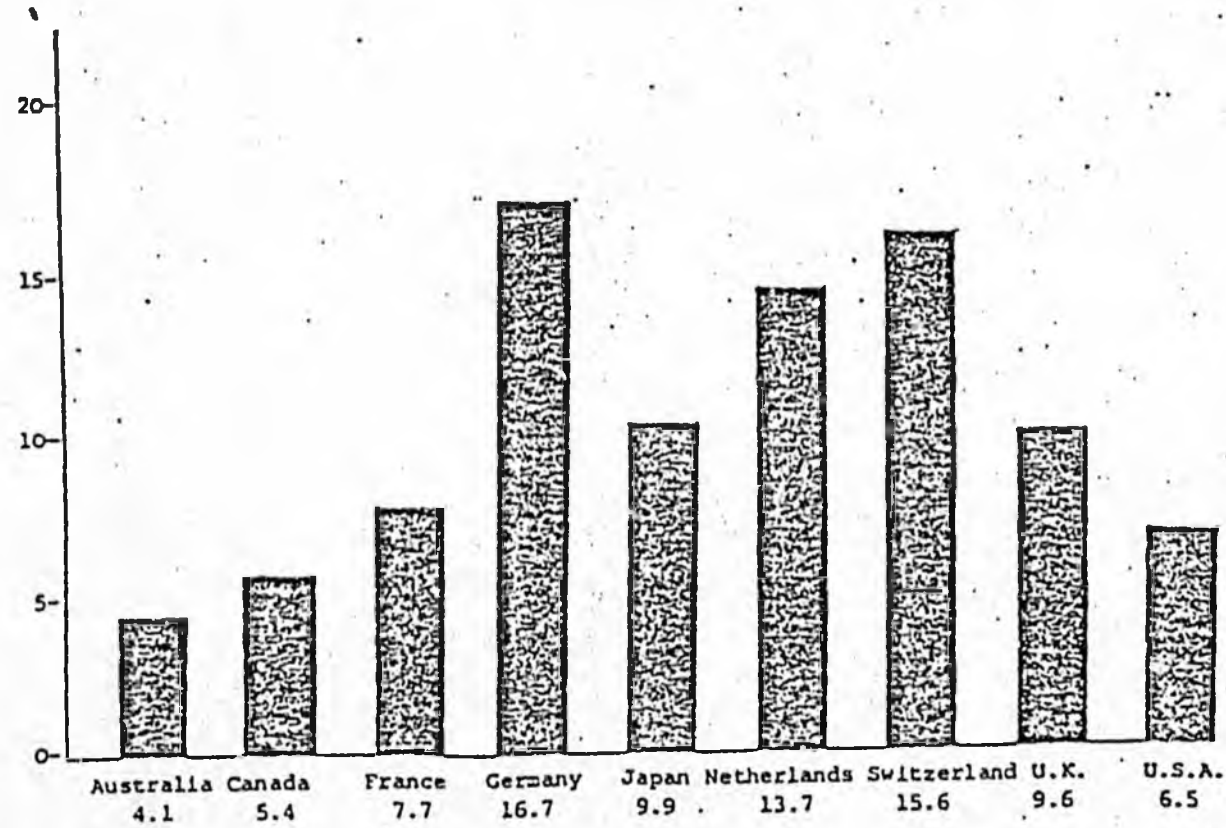
Average Annual Rates of Total Return
Bond Markets - No Currency Adjustment

1970-1979

BONDS - 10 YEARS



Average Annual Rates of Total Return
Bond Markets - Adjusted for Currency Movements relative to Dollar



Source: Kleinwort, Benson Ltd., London

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA PUBLIC UTILITIES COMMISSION

* Carolyn Guess, Anchorage, term expiring 10/31/87

* Susan Knowles, Anchorage, term expiring 10/31/87

Diana Snowden, Anchorage, term expiring 10/31/86

Resumes are attached for the above named individuals, and I would appreciate hearing from you by 1 March, 1982, if you have objections to their confirmations. Thank you.

*Reappointments

CAROLYN S. GUESS

Commissioner Guess is currently the Chairman of the Alaska Public Utilities Commission.

EDUCATION

Bachelor of Arts Degree - College of Williams & Mary
Williamsburg Va

The Annual Regulatory Studies Program
National Association of Regulatory
Utility Commissioners - 1976

Seminar for Retail Rate Consultants
Rural Electrification Administration - 1977

Public Utility Seminar on Corporate Finance
Kidder, Peabody & Co., Incorporated - 1978

Electric Utility Rate Design Study
Electric Power Research Institute - 1980

RELEVANT EXPERIENCE

Alaska Public Utilities Commission

1975 - present - Commissioner
March 1981 - present - Chairman
March 1978 - November 1978 - Acting Executive Director
July 1979 - October 1979 - Acting Executive Director

National Association of Regulatory Utility Commissioners

1975-present	Member
1978-present	Ad Hoc Committee on the National Energy Act

SIGNIFICANT LEGISLATIVE TESTIMONY

Sunset Review of AS 42.05 - 1980

Merger of Alaska Pipeline
Commission and Alaska Public
Utilities Commission - 1981

CONFERENCE PARTICIPATION

Energy Conference sponsored by the Alaska Native Foundation 1979

Governor's Committee - State Energy Policy - 1978-80

Reliability Council for Alaska (electric)
sponsored by Alaska Power Administration 1980-present

SUSAN M. KNOWLES

1319 G Street
Anchorage, Alaska 99501

(907) 279-6336

EDUCATION:

University of Alaska
Anchorage, Alaska
MBA, Finance, 1979

Vassar College
Poughkeepsie, New York
AB, Political Science, 1968

EMPLOYMENT:

October, 1975 to Present:

Commissioner

State of Alaska
Alaska Public Utilities Commission
Anchorage, Alaska

June, 1973 to September, 1975:

Property Investment Finance Manager

David E. Alm and Joe L. Hayes
Borough-City Development, Inc.
Campbell Lake Development Co.
Campbell Lake Inc.
Anchorage, Alaska

November, 1970 to September, 1975:

Secretary-Treasurer

Grizzly Burger, Inc.
Anchorage, Alaska

December, 1968 to November, 1970:

Administrative Assistant

Community Enterprise Development Corporation
Anchorage, Alaska

R E S U M E

DIANA E. SNOWDEN

Trapline Drive
SRA Box 1735-M
Anchorage, Alaska 99507

Home: (907) 344-0000
Work: (907) 263-2112

EXPERIENCE:

ALASCOM, INC., 949 EAST 36TH AVE., ANCHORAGE, AK 99502
TELEPHONE UTILITIES, INC., 1221 S.W. YAMHILL ST., PORTLAND, OR 97205

Vice President, Industrial Relations - September 1980 to September 1981. Salary and Bonus $75,000.

Holding dual Vice President office positions for Alascom and Telephone Utilities (both subsidiaries of Pacific Power & Light), was responsible for policy level decisions affecting the overall business performance of the two companies and their 2,500 employees. As a member of the senior executive staff, approved $50 million in annual capital expenditure requests, participated in the budget review process of $80 million in annual operating costs, reviewed financial and operating statements of the company's monthly progress against budget. Initiated written corporate policy statements, directed management efficiency studies as well as time-and-motion analyses designed to eliminate unnecessary staffing and inefficient spending in a regulated industry. Presented formal reports to the Board of Directors of Alascom, Telephone Utilities, and their parent company (Pacific Power & Light) on matters affecting administration, employee and labor relations.

Directed combined Industrial Relations and Corporate Administrative Services staff composed of over 60 professional and clerical personnel with a 1981 budget of $7 million. Responsibility for direction and coordination of all functions of Industrial Relations included: corporate employment in over 80 geographic locations in five states, labor relations and contract negotiations with largest Teamster bargaining unit in Alaska as well as IBEW and CWA units in Pacific Northwest, wage and salary administration, employee benefits, management training and development, position classification, EEO and Affirmative Action Programs, employee communications, long-range organizational planning and development, Workers' Compensation, performance appraisals, College Honors Internship Program, Safety and DOD Military Security, and employee social and recreational events. Was further responsible for Corporate Administrative Services including: Word Processing Center, mail and courier services, Telex, corporate aircraft and travel, office supplies and equipment, company cafeteria and motor pool, records management, and office space planning and allocation.

Provided guidance and direction for establishment of corporate policies and long-range planning with regard to human resource management. Provided direct policy guidance on design and development of employee benefits and compensation programs. Personally served as chief negotiator and spokesperson in labor negotiations with seven (7) parent company unions, and determined grievance resolutions. Testified on behalf of Alascom before regulatory agencies on telecommunications issues; represented the Company by speaking to statewide community groups and organizations.

Director of Employee Relations (ALASCOM) - May 1979 to September 1980. Salary $48,000.

Responsibilities essentially identical to those stated above, but were limited to Alascom only and did not include Telephone Utilities.

ANCHORAGE SCHOOL DISTRICT, 4600 DEBARR ROAD, ANCHORAGE, AK

Director of Employee Relations/EEO - August 1977 to May 1979. Salary $39,000.

Served as Chief Negotiator on administration negotiating committees; reported directly to the School Board on labor and negotiation matters. Conducted administrative hearings on employee terminations, suspensions, and other serious disciplinary actions, and established District position on disputed union grievances before appointed Hearing Examiner or Arbitrator. Presented School District's case, examined witnesses, prepared briefs, etc. Represented School District before State Unemployment Compensation Office in appeal hearings and prepared cases and represented School District in student/employee discrimination suits (over 70) before various federal and state human rights enforcement agencies.

Organized and conducted School District's training seminars on grievances, EEO, and personnel management related subjects. Chaired Classified Evaluation pilot program committee. Chaired District's Planning and Development Committee and wrote substantial portion of District's five-year operating goals. Responsible for all CETA contracts with State and Municipality. Represented School District in speaking before organizations and groups on a variety of community interests/concerns.

Director, Equal Employment Opportunity Office - November 1973 to July 1977. Salary $30,000

Responsible for development, implementation, and monitoring of comprehensive district-wide Affirmative Action Plan designed to assure fair and impartial programs relative to employment, pro-

motion, and training for nearly 4,000 employees of the School District. Substantially increased the percentage of minorities in every job classification level. Approved all employee selection and promotion decisions to increase consideration of minority applicants.

WESTWOOD MANAGEMENT CORPORATION, 5401 WESTBARD AVE., WASHINGTON, D.C.

Assistant Vice President/Treasurer - April 1970 to September 1973. Salary and Options $22,000.

Directed real estate management affairs concerned with day-to-day operation of office staff, which managed commercial real estate investments of over $110,000,000, and held overall operational responsibility for headquarters office in absence of Executive Vice President. Prepared profit and loss statements, net cash flow charts, and cost-effectiveness studies based upon comparable Washington, D.C. real estate market.

SYSTEMS RESEARCH CORPORATION, 1028 CONNECTICUT AVE., WASHINGTON, D.C.

Manager, Proposals and Solicitations - July 1969 to April 1970. Salary $14,000.

General responsibilities centered on research and writing of proposals and government contract bids, including supervision and coordination of staff of nine; liaison with government officials; and marketing. Performed marketing research analyses, attended Congressional hearings, interviewed legislative aides, and researched expected appropriations. Also responsible for corporate news releases and design and writing of a company brochure.

Research Associate - January 1969 to July 1969.
Salary $8,900.

Researched and co-authored five technical reports on pre-design phase of the Navy's Amphibious Fire Support Ship (LFS): "Life-Cycle Cost Analysis," "Interface Requirements," "Fixed Annual Operating Costs," "Sensitivity and Trade-Off Analysis," and "Competing Systems."

Technical Assistant - September 1969 to January 1970.
Salary $6,000.

Researched and wrote classified manuscripts on governmental and economic systems of Jordan, Tunisia and Turkey for technical documents prepared under contract to the U.S. Department of Defense. Rewrote, copy-edited text, and prepared all research and bibliographical materials for entire project.

EDUCATION (GRADUATE) PROFESSIONAL CERTIFICATE, LABOR/MANAGEMENT RELATIONS, UNIVERSITY OF ALASKA, ANCHORAGE, ALASKA, 1978.

M.P.A. CANDIDATE, UNIVERSITY OF ALASKA, ANCHORAGE, ALASKA. CONCENTRATION LABOR/MANAGEMENT RELATIONS (coursework completed; thesis remaining).

M.A. GEORGETOWN UNIVERSITY, WASHINGTON, D.C., 1969.
MAJOR - POLITICAL SCIENCE (URBAN STUDIES).

B.A. TRINITY COLLEGE, WASHINGTON, D.C. 1967, MAJOR - GOVERNMENT

HONORS & ACTIVITIES

COLLEGE: Four-year scholarship to Trinity College; Dean's List; V.P. Student Council; V.P. Russian Club; elected to Pi Gamma Mu Honor Society; graduated Summa Cum Laude; Nominated for Woodrow Wilson Fellowship.

HIGH SCHOOL: Valedictorian; National Merit Scholarship Finalist; Texas State Debating Champion; Second in U.S. Cross-Examination Debate; Texas Science Fair Winner in Biology.

PERSONAL

Date of Birth - October 29, 1947; Height - 5' 11"; Weight - 120 lbs; Health - excellent.

REFERENCES

References from current and all past employees provided gladly upon request.

STATE OF ALASKA

OATH OF OFFICE

Office or Department of Commerce & Econ. Dev.

I, Diana E. Snowden, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Commissioner of (board or commission) the Alaska Public Utilities Comm. to the best of my ability.

Diana E. Snowden

Subscribed and Sworn to before me this 23rd day of Sept., 1981.

Rona J. McPherren
Notary Public, State of Alaska
My Commission expires: 3-20-85

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT TO AN ALASKA BOARD OR COMMISSION

FULL NAME Diana F. Snowden

PLACE OF RESIDENCE Anchorage, Alaska

BIRTHPLACE New York, New York

MAILING ADDRESS SRA Box 1735-M, Anchorage 99507

I HAVE LIVED IN ALASKA FOR eight (8) YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

n/a

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED O'Malley Elementary #130

I, Diana F. Snowden, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Diana F. Snowden

Subscribed and Sworn to before me this 23rd day of September 1981.

Lorna J. McKernan
Notary Public, State of Alaska
My Commission expires: 3-20-85

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

Mike Harper, Anchorage, term expiring 7/01/83

A resume is attached for the above named individual, and I would appreciate hearing from you by 1 March, 1982, if you have objections to the confirmation. Thank you.

RESUME

MICHAEL C. HARPER

Personal

5051 Mills Drive
Anchorage, Alaska 99504
(907) 333-0372

37 years old (DOB 11-30-44)
Married: Jane E. Harper
One Daughter: Kristine

Education

1968 graduate of University of Georgia, Bachelor of Business Administration; continuing professional development with courses in Commercial Banking and Lending

Military

1968 - 1971 U.S. Army

Employment History

September 1979 to Present	Loan Officer - United Bank Alaska Commercial Loan Department 645 G Street Anchorage, Alaska 99501
January 1975 - August 1979	Deputy Commissioner - Department of Community & Regional Affairs; Administrative Assistant to the Governor Office of Lt. Governor State of Alaska Juneau, Alaska
July 1971 - December 1974	Planner Deputy Director Executive Director Rural Alaska Community Action Program Anchorage

Civic & Professional Organizations

Member - Tundra Times Board of Directors
Member - Basic Industrial Development Steering Committee

Past Memberships

Member - Doyon, Ltd.
Member - Governor's Task Force on Telecommunications
Member - Bristol Bay Regional Development Council
Member - State Manpower Planning Council
Member - United Bank Alaska

Awards

Outstanding Young Man Award - 1976
Community Leaders & Noteworthy Americans - 1976

STATE OF ALASKA

OATH OF OFFICE

Office or Department Alaska Industrial Development Authority

I, Michael C. Harper, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a _____ of (board or commission) board member to the best of my ability.

Michael C. Harper

Subscribed and Sworn to before me this 22nd day of September, 1981.

Janice D. Beam
Notary Public, State of ALASKA
My Commission expires: My Commission expires Dec. 10, 1984

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSIC.

FULL NAME Michael C. Harper

PLACE OF RESIDENCE 5051 Mills Drive Anchorage, Alaska 99504

BIRTHPLACE Fairbanks, Alaska

MAILING ADDRESS 5051 Mills Dr. Anchorage, Ak 99504

I HAVE LIVED IN ALASKA FOR 36 YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED Election District 10 Anchorage No. 22

I, Michael C. Harper, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Michael C Harper

Subscribed and Sworn to before me this 22nd day of September, 19 81.

Janice D. Beam

Notary Public, State of ALASKA

My Commission expires: My Commission expires: Dec. 10, 1984

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Ziegler
Senator Rodey

FROM: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

The following Governor's appointees for Legislative confirmation have been referred to the Senate Labor and Commerce Committee:

BOARD OF ELECTRICAL EXAMINERS

Gordon J. Helem, Sitka, term expiring 7/10 1984

A resume is attached for the above named individual, and I would appreciate hearing from you by 1 March, 1982, if you have objections to this confirmation. Thank you.

TRAINING & EXPERIENCE: (If resumé attached, it is not necessary to complete items A-D)

A. List any professional licenses, certifications, or registrations and dates obtained that may be used as qualifying criteria:

Alaska Electrical Contractor License IW & OLW #176
Original license issued in 1969

Specialty Contractor License #AA 0810

Certificate of Commission to the Board of Electrical Examiners 1971-1975

B. List both formal and informal education and training experiences: (Use additional paper if necessary)

High School

6 quarters University of Washington Engineering School

C. List any community service positions, municipal government positions, state positions held, and list any awards received. These include both compensated and uncompensated positions (for example, president of a service organization or a mayor). Also include length of time served in the positions.

City of Si[illegible] Public Utility Board approx. 4 years

D. Employment work history: paid, unpaid or voluntary: (Use additional paper if necessary)

Construction & maintenance electrician: 1949-1959

Electrical Superintendant, Alaska Lumber & Pulp Co.: 1959-1963
Maintenance Dept Supervisor, " " " " : 1963-1967

Electrical Contractor : 1968-Present

The Office of the Governor and the State of Alaska have an Affirmative Action Equal Employment Opportunity Program. To assist in the program, you are asked to voluntarily answer the following questions to provide the information necessary for reporting purposes. Under State and Federal law, the information you provide will not be used to illegally discriminate against you.

SEX
☒ Male
☐ Female

ETHNIC BACKGROUND
☒ White ☐ Black ☐ Hispanic ☐ Alaska Native ☐ Asian or Pacific Islander ☐ American Indian

Date of Birth	Military Service (If applicable, give dates)
7/12/22	U.S. Navy 1944-1946

CERTIFICATION: I swear that the information I have entered on this form is true to the best of my knowledge. I understand that if I deliberately conceal or enter false information on the form my application may be rejected, I may be removed from the list of eligible candidates or I may be removed from the position. I agree that the Office of the Governor may contact present or former employers or other persons who know me to obtain additional information about my skills and abilities. I understand that the information on this application is public information and may be released through a legal request for such information.

Signature [illegible] Date 9/1/81

SITKA ELECTRIC, INC.

BOX 1609 • 815 HALIBUT POINT ROAD — SITKA, ALASKA — 99835 747-8887

GORDON J. HELEM
ELECTRICAL CONTRACTOR

December 14, 1981

VOCATIONAL RÉSUMÉ

Gordon J. Helem
P.O. Box 1609
Sitka, Alaska 99835

Age: 59

1949-1954 Maintenance Electrician, Bethlehem Steel, Seattle, Washington

1954-1958 Maintenance Electrician, Ketchikan Pulp Co., Ketchikan, Alaska

1958-1959 Construction Electrician, City Electric, Anchorage, Alaska

1959-1963 Electrical Supervisor, Alaska Lumber & Pulp Co., Sitka, Alaska

1963-1967 Maintenance Supervisor, Alaska Lumber & Pulp Co., Sitka, Alaska

1967-Present Manager & President, Sitka Electric, Inc., Sitka, Alaska

STATE OF ALASKA

OATH OF OFFICE

Office or Department DEPARTMENT OF COMMERCE

I, GORDON JAMES HELEM, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a MEMBER of (board or commission) BOARD OF ELECTRICAL EXAMINERS to the best of my ability.

Gordon J. Helem

Subscribed and Sworn to before me this 12 day of Oct., 1981.

Delores M. Hansen
Notary Public, State of Alaska
My Commission expires: 11-25-84

(Seal)

A F F I D A V I T

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME GORDON JAMES HELEM

PLACE OF RESIDENCE 1105 HALIBUT POINT ROAD, SITKA, ALASKA

BIRTHPLACE CORONATION, ALBERTA, CANADA

MAILING ADDRESS P.O. BOX 1609, SITKA ALASKA 99835

I HAVE LIVED IN ALASKA FOR 37 YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

1932, SEATTLE WASHINGTON

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED SITKA PRECINCT #3

I, GORDON JAMES HELEM, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Gordon J Helem

Subscribed and Sworn to before me this 12 day of Oct, 19 81.

Delores M. Hansen

Notary Public, State of Alaska

My Commission expires: 11-25-84

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

MEMORANDUM

15 February, 1982

TO: Senator Hohman, Vice Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

FROM: Senator Mulcahy, Chairman
Senator Labor and Commerce Committee

The following Governor's appointees for legislative confirmation have been referred to the Senate Labor and Commerce Committee:

ALASKA WORKER'S COMPENSATION BOARD

Peter P. Gerl, Anchorage, term expiring 7/1/85
*Ann S. Pittenger, Anchorage, term expiring 7/1/84

William B. Woodland, Anchorage, term expiring 7/1/85

Resumes are attached for the above named individuals, and I would appreciate hearing from you by 1 March, 1982, if you have objections to their confirmation. Thank you.

*Reappointment

R E S U M E

Name: Peter P. Gerl

Address: 1210 W. 47th Avenue, Apt. #4
Anchorage, Alaska 99503
(907) 276-5829

Born: January 31, 1920 - Hewitt, Wisconsin

Married: Wife - Frances
Daughter - Clara

Education: High School Education with various seminar(s) to update skills and abilities for my involved profession(s) (i.e. International Foundation of Employee Benefit Plans, I.B.T. Labor Institutes).

Alaska: I have resided in the Territory and State of Alaska for approximately 30 years.

Military Service: I served in the United States Navy in Alaska from 1943 to 1946. Honorable Discharge.

Brief Work History: I have worked in the Construction Industry in Alaska both as a member of the Laborers and Teamsters. I worked out of the Laborers Union until 1958, at which time I joined and was employed through the Teamsters.

From 1960 - 1964 - I worked in the Communication Industry at Clear, Alaska employed as a Teamster Craft Supervisor for the BMEWS site.

From 1964 - 1977 - I served as Business Representative and Union President until my recent retirement. While serving as a Union Representative and Officer, I served on various Local Union Benefit Trust Funds and other Civic and State related Commissions (i.e. Economic Development Commission).

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor, Workers' Compensation Div.

I, Peter P. Gerl, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a Member of (board or commission) The Workers' Compensation Board to the best of my ability.

Peter P. Gerl

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Dranenflower
Notary Public, State of Alaska
My Commission expires: 1-19-1984

(Seal)

AFFIDAVIT

RECEIVED
JAN 27 '82
GOVERNORS OFFICE

QUALIFICATIONS FOR APPOINTMENT TO AN ALASKA BOARD OR COMMISSION

FULL NAME PETER PAUL GERL

PLACE OF RESIDENCE 1210 W 47 APT #4 99503

BIRTHPLACE HEWITT WIS.

MAILING ADDRESS 1210 W 47 APT 4 ANCHORAGE 99503

I HAVE LIVED IN ALASKA FOR 36 4 YEARS YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

N/A

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED NO 17

I, Peter (P) Gerl, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Subscribed and Sworn to before me this 25th day of January, 1982.

Rebecca Brandstrom
Notary Public, State of Alaska
My Commission expires: 1-19-1984

ANN D. PFLEEGER
6602 Lakeway Drive
Anchorage, Alaska 99502

Telephone: Office (907) 278-2525
Residence (907) 243-7238

PROFESSIONAL OBJECTIVE

To transfer my knowledge and experience in Personnel Management to the field of Real Estate, utilizing interviewing skills to determine the needs and wants of clients and customers, and negotiating techniques to obtain the best terms possible. Being selfemployed the financial returns proves capabilities, whereas when on salary there is always the question of one's professional worth.

EXPERIENCE

April 1981 - Present Area, Inc. Realtors 4794 Business Park Blvd Building F Anchorage, Alaska 99503	REAL ESTATE ASSOCIATE Serve the public in their Real Estate needs.
October 1974 - June 1980 The Hotel Captain Cook P.O. Box 2280 Anchorage, Alaska 99510 Att: Walter J. Hickel, Jr.	DIRECTOR OF PERSONNEL Initiated and developed a viable Personn Department and Program for all Hickel properties. Was responsible for monitoring same.
Tax Season 1973 & 1974 H & R Block 2810 C Street Anchorage, Alaska 99502 Att: Steve Audette	INCOME TAX CONSULTANT Prepared personal and small business taxes. Managed branch office in 1974.
October 1968 - June 1971 Mother Wright's Bakery P.O. Box 1345 Station A Omaha, Nebraska 68110 (Company Sold)	EMPLOYEE RELATION MANAGER Handled all personnel functions includin preparations for Union negotiations and grievances.
October 1964 - June 1968 Fedway Department Stores East Central Avenue Albuquerque, New Mexico 87106 Att: William F. Burnette	ASSISTANT PERSONNEL MANAGER In charge of recruiting, interviewing, a hiring sales, clerical, and maintenance personnel (2½ years). PERSONNEL ASSISTANT Responsible for establishing, conducting and evaluating a new Sales Training Program (1 year). FLOATING SALES PERSON Sales in all Departments (3 months).
Prior 1964	Talent for television commercials; Children's Radio Program; Airline Reservationist and Ticket Agent; Summer Stock Theatre.

EDUCATION

1980 - Present	Courses in Real Estate.
1965 - 1980	Courses in Management and related semina
1946 - 1949 University of New Mexico Albuquerque, New Mexico	Major Fine Arts (Theatre) Minor English
1945 Albuquerque High School	Graduated

PRESENT AFFILIATIONS

National Association of Realtors/Member-
Alaska Workers Compensation Board/
American Society for Personnel Administrators.

STATE OF ALASKA

OATH OF OFFICE

Office or Department Department of Labor

I, Ann S. Pittenger, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States, and the Constitution of the State of Alaska, and that I will faithfully discharge my duties as a member of (board or commission) Alaska Workmen's Compensation Board to the best of my ability.

Ann S. Pittenger

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 1979.

James L. O'Berry

Notary Public, State of Alaska

My Commission expires: 4-4-82

(Seal)

AFFIDAVIT

QUALIFICATIONS FOR APPOINTMENT

TO AN ALASKA BOARD OR COMMISSION

FULL NAME Ann S. Pittenger

PLACE OF RESIDENCE Anchorage, Alaska

BIRTHPLACE Boston, Massachusetts

MAILING ADDRESS 6602 Lakeway Dr., Anchorage, Alaska 99502

I HAVE LIVED IN ALASKA FOR Eight (8) YEARS.

DATE/PLACE OF NATURALIZATION, IF A NATURALIZED CITIZEN

PLEASE GIVE EXACT NAME OR NUMBER OF THE ALASKA PRECINCT IN WHICH YOU LAST VOTED Anchorage No. 120 - Election District No 12

I, Ann S. Pittenger, DO SOLEMNLY SWEAR (OR AFFIRM) THAT THE ABOVE STATEMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

Ann S. Pittenger

Subscribed and Sworn to before me this 30th day of August, 19 79.

Notary Public, State of Alaska
My Commission expires: 4-4-82

RECEIVED
DEC 1 1981
OFFICE OF THE COMMISSIONER

WILLIAM B. WOODLAND
700 "I" Street
Anchorage, Alaska 99501
(907) 272-8501

General

Born April 22, 1949
Alaska Resident Since 1953
Married, Two Children

Education

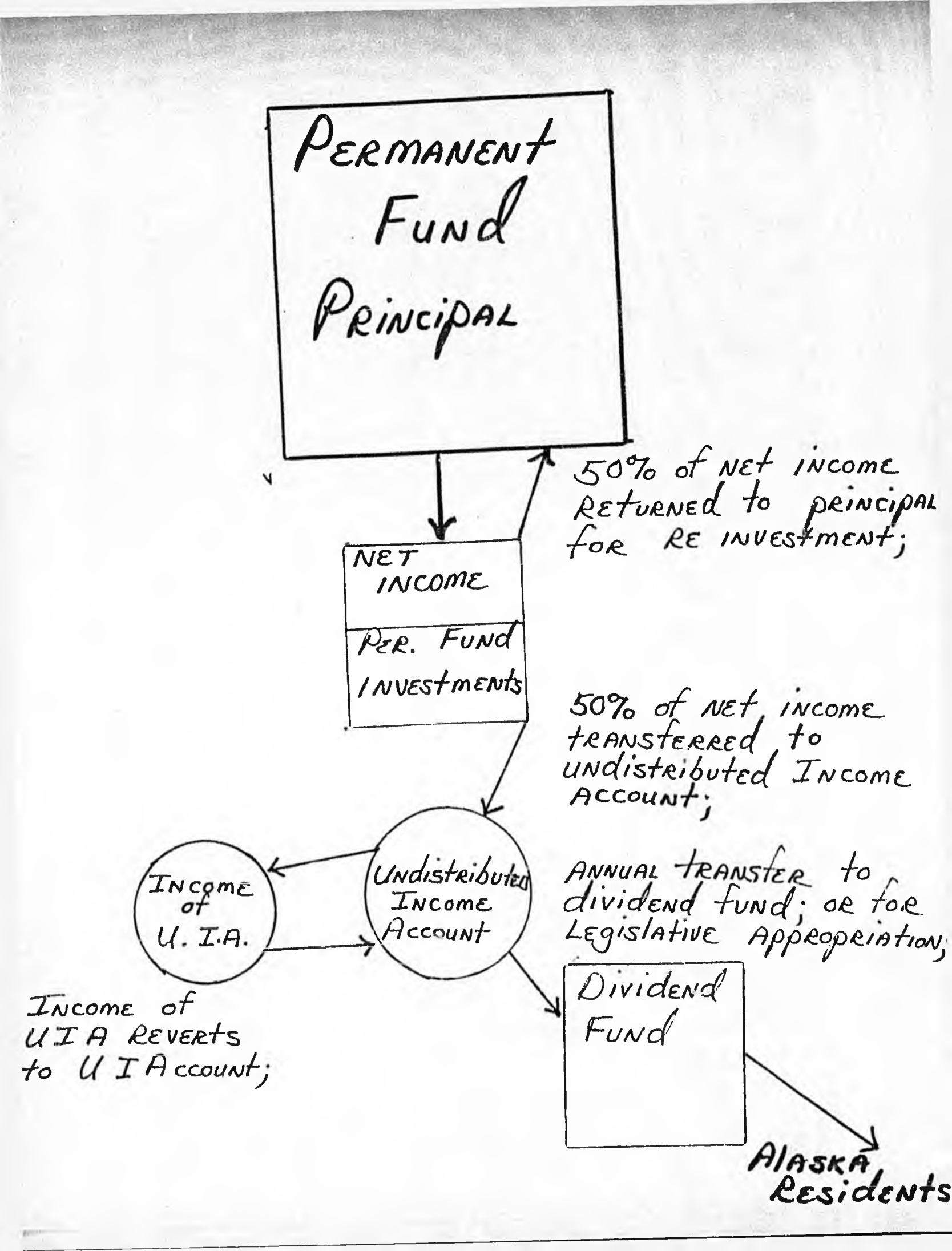
Graduated from High School, Anchorage, Alaska 1967
Graduated from Western Washington University 1971, Engineering Degree

Work History

1971 - 1981: Self-employed as owner/operator of Snow White Laundry and Cleaners & Quality Linen Supply, Anchorage, Alaska; and Quality Cleaners and Laundry, Eagle River, Alaska.

1975 - 1977: Served as Management Member on the Alaska Workers' Compensation Board, Anchorage, Alaska

Workers' Compensation


PERMANENT FUND PRINCIPAL
50% of NET INCOME RETURNED to PRINCIPAL for RE INVESTMENT;
NET INCOME
PER. FUND INVESTMENTS
50% of NET INCOME TRANSFERRED to UNDISTRIBUTED INCOME ACCOUNT;
INCOME of U.I.A.
UNDISTRIBUTED INCOME ACCOUNT
ANNUAL TRANSFER to dividend fund; OR for LEGISLATIVE APPROPRIATION;
DIVIDEND FUND
INCOME of UIA REVERTS to UI ACCOUNT;
ALASKA RESIDENTS

mineral revenue sharing payments received by the state from mineral leases issued on or before December 1, 1979, and 25 percent of all bonuses received by the state from mineral leases issued on or before February 15, 1980;

(2) 50 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal mineral revenue sharing payments received by the state from mineral leases issued after December 1, 1979, and 50 percent of all bonuses received by the state from mineral leases issued after February 15, 1980;

(3) any other money appropriated to or otherwise allocated by law to the Alaska permanent fund.

(b) Payments due the Alaska permanent fund under (a) of this section shall be made to the fund once each month.

(c) The Alaska permanent fund shall be managed by the Alaska Permanent Fund Corporation established in AS 37.13.010 — 37.13.210. (§ 5 ch 18 SLA 1980)

Legislative history reports. -- For the Free Conference Committee Report on ch. 18, SLA 1980 (FCCSSB 161), see 1980 House Journal, Supplement No. 7, April 2, 1980.

Sec. 37.13.020. Findings. The people of the state, by constitutional amendment, have required the placement of at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, and federal mineral revenue sharing payments and bonuses received by the state into a permanent fund. The legislature finds with respect to the Alaska Permanent Fund Corporation that

(1) the corporation should provide a means of conserving a portion of the state's revenues from mineral resources to benefit all generations of Alaskans;

(2) the corporation's goal should be to maintain safety of principal while maximizing total return;

(3) the corporation should be used as a savings device managed to allow the maximum use of disposable income from the corporation for purposes designated by law. (§ 5 ch 18 SLA 1980)

Sec. 37.13.030. Purpose. It is the purpose of AS 37.13.010 — 37.13.210 to provide a mechanism for the management and investment of those permanent fund assets allocated to the Alaska Permanent Fund Corporation in a manner consistent with the findings in AS 37.13.020. (§ 5 ch 13 SLA 1980)

Sec. 37.13.040. Alaska Permanent Fund Corporation. There is established the Alaska Permanent Fund Corporation. The corporation is a public corporation and government instrumentality in the Department of Revenue managed by the board of trustees. The purpose of the board is to manage and invest the assets of the corporation in accordance with AS 37.13.010 — 37.13.210. (§ 5 ch 18 SLA 1980)

commercial purchasers of the 1980 salmon harvest;

(3) participate with commercial banks in the making of loans to provide financial assistance to commercial purchasers of the 1980 salmon harvest;

(4) enter into agreements with the Department of Revenue to provide guarantees from the fish processing loan guarantee account for

(A) up to 60 percent of the portion of a loan described in (1) — (3) of this subsection held by a commercial bank; and

(B) up to 100 percent of the portion of a loan described in (1) — (3) of this subsection held by an institution of the federal farm credit system if that portion does not exceed 80 percent of the total amount of the loan.

(b) A loan may not be guaranteed under (a)(4) of this section unless 20 percent or more of the guaranteed portion of the loan is held by the Commercial Fishing and Agriculture Bank.

(c) There is created as a separate account in the general fund the fish processing loan guarantee account. The fish processing loan guarantee account consists of assets transferred to it from the general fund. The commissioner of revenue shall administer the fish processing loan guarantee account and may enter into agreements with the Commercial Fishing and Agriculture Bank to use the assets of the fish processing loan guarantee account to provide guarantees for loans under (a)(4) of this section. The total amount of the guaranteed portion of loans guaranteed under (a)(4) of this section may not exceed $40,000,000.

(d) The commissioner of revenue may, to the extent that appropriations are made available to him for the purpose, lend up to $12,000,000 to the Commercial Fishing and Agriculture Bank to provide financial assistance to commercial purchasers of the 1980 salmon harvest. The portion of a loan made with money lent to the Commercial Fishing and Agriculture Bank under this subsection may not be guaranteed under (a)(4) of this section.

(e) In this section, "commercial bank" means a bank chartered by the United States or by a state of the United States."

Section 3, ch. 32, SLA 1980 provides: "The legislature finds that the Alaska Renewable Resources Corporation has complied with all requirements for an investment of $3,500,000 in Ball Brothers, Inc., an Alaska corporation, except for the requirement in AS 37.12.080(b) that no financial assistance of more than $1,500,000 may be provided to a single project or applicant unless the legislature has approved the investment by concurrent resolution. The legislature further finds that approval of the investment is in the public interest. Notwithstanding the provisions of AS 37.12.080(b) requiring approval by concurrent resolution, the investment in the amount of $3,500,000 is approved and the corporation is authorized to make the proposed investment in Ball Brothers, Inc., an Alaska corporation."

Chapter 13. Alaska Permanent Fund.

Section

10. Alaska permanent fund
20. Findings
30. Purpose
40. Alaska Permanent Fund Corporation
50. Composition and qualifications of board of trustees
60. Term of office
70. Removal and vacancies
80. Quorum
90. Compensation of board members
100. Corporation staff
110. Conflicts of interest
120. Investment responsibilities of the board
130. Gains and losses
140. Income
150. Board budget
160. Audits
170. Reports and publications
180. Tax exemption
190. Political activities
200. Public access to information
210. Definitions

Sec. 37.13.010. Alaska permanent fund. (a) Under art. IX, § 15 of the state constitution, there is established as a separate fund the Alaska permanent fund. The Alaska permanent fund consists of

(1) 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, net profit shares under AS 38.05.180(f) and (g), and federal

Sec. 37.13.050. Composition and qualifications of board of trustees. (a) The Board of Trustees of the Alaska Permanent Fund Corporation consists of six members appointed by the governor. Three of the members shall be heads of principal departments of state government, one of whom shall be the commissioner of revenue. Three members shall be appointed by the governor from the public and may not hold any other state or federal office, position or employment, either elective or appointive, except as a member of the armed forces of either the United States or of this state. Members other than the commissioner of revenue shall be separately confirmed by a majority of the members of the legislature in joint session.

(b) The three public members of the board shall have recognized competence and wide experience in finance, investments, or other business management-related fields.

(c) The board shall annually elect a chairman from among its members. (§ 5 ch 18 SLA 1980)

Sec. 37.13.060. Term of office. The members of the board shall be appointed for terms of three years, and they may be reappointed subject to confirmation by a majority of the members of the legislature in joint session. Terms shall be staggered. Initial terms for members other than the commissioner of revenue shall be two members serving for one year, two members serving for two years, and one member serving for three years. (§ 5 ch 18 SLA 1980)

Sec. 37.13.070. Removal and vacancies. (a) The governor may remove a member of the board from office. However, the removal of a member of the board is subject to disapproval by a vote of a majority of the members of the legislature at the first joint session held 10 or more days after the legislature receives notice of the removal from the governor. A removal by the governor shall be in writing and shall state the reason for the removal. A member who is removed by the governor may not participate in board business and may not be counted for purposes of establishing a quorum between the time he receives written notice of his removal from the governor and the time that the legislature's power to disapprove the removal under this subsection expires. If the legislature disapproves the removal of a board member, the board member shall be reinstated.

(b) A vacancy on the board shall be promptly filled by appointment by the governor and confirmation by a majority of the members of the legislature in joint session. An appointee to a vacancy shall hold office for the balance of the term for which his predecessor on the board was appointed. If a vacancy arises on the board while the legislature is not in session, the governor may appoint an interim board member who shall exercise the powers of a board member until the legislature fails to confirm the appointment of the interim board member.

(c) A vacancy on the board does not impair the authority of a quorum of the board to exercise all the powers and perform all the duties of the board. (§ 5 ch 18 SLA 1980)

Sec. 37.13.080. Quorum. Four members of the board constitute a quorum for the transaction of business and the exercise of the powers and duties of the board. (§ 5 ch 18 SLA 1980)

Sec. 37.13.090. Compensation of board members. Public members of the board receive an honorarium of $400 for each meeting day if they attend the meeting. All members of the board are entitled to per diem and travel allowances as provided by law for members of state boards and commissions. (§ 5 ch 18 SLA 1980)

Sec. 37.13.100. Corporation staff. The board may employ and determine the salary of an executive director. The executive director may, with the approval of the board, select and employ additional staff as necessary. No employee of the corporation, including the executive director, may be a member of the board. The executive director and the other employees of the board are in the exempt service under AS 39.25.010 — 39.25.220. (§ 5 ch 18 SLA 1980)

Sec. 37.13.110. Conflicts of interest. (a) Members of the board and the executive director are subject to the provisions of AS 39.50.010 — 39.50.200.

(b) If a member of the board or an employee of the corporation acquires, owns or controls an interest, direct or indirect, in an entity or project in which corporation assets are invested, he shall immediately disclose the interest to the board. The disclosure is a matter of public record and shall be included in the minutes of the board meeting next following the disclosure. (§ 5 ch 18 SLA 1980)

Sec. 37.13.120. Investment responsibilities of the board. (a) The prudent-man rule shall be applied by the board in the management and investment of Alaska permanent fund assets. The prudent-man rule as applied to investments of the corporation means that in making investments the board shall exercise the judgment and care under the circumstances then prevailing which an institutional investor of ordinary prudence, discretion, and intelligence exercises in the management of large investments entrusted to it not in regard to speculation but in regard to the permanent disposition of funds, considering probable safety of capital as well as probable income.

(b) The corporation assets shall only be used for income-producing investments.

(c) The board shall maintain a reasonable diversification among investments unless under the circumstances it is clearly prudent not to do so.

(d) The board shall submit long-range and quarterly investment reports to the Legislative Budget and Audit Committee.

(e) The corporation may not borrow funds or guarantee from principal of the Alaska permanent fund the obligations of others.

(f) The board may enter into and enforce all contracts necessary, convenient or desirable for purposes of the corporation.

(g) Subject to the limitations in (h) and (i) of this section, the board may invest corporation assets in

(1) obligations of, or obligations insured by or guaranteed by, the United States or agencies or instrumentalities of the United States;

(2) obligations secured by reserves paid in by the United States or agencies or instrumentalities of the United States or obligations of corporations in which the United States is a shareholder or member;

(3) certificates of deposit issued by United States domestic banks which are members of the Federal Deposit Insurance Corporation for which a generally recognized secondary market exists or which are fully secured at all times as to payment of principal and interest by investments described in (1), (2), (8) or (12) — (16) of this subsection; the security pledged under this paragraph shall be at least equal to the face value of the deposit and the board may require substitution of collateral;

(4) shares of federally chartered savings and loans associations in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1), (2) of this subsection;

(5) savings certificates issued by state chartered savings and loan associations in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1), (2) of this subsection;

(6) deposits with mutual savings banks in Alaska which are fully secured at all times as to payments of principal and interest by investments described in (1), (2) of this subsection;

(7) fixed-term certificates of indebtedness of federally insured credit unions which are fully secured at all times as to payments of principal and interest by investments described in (1), (2) of this subsection;

(8) corporate debt securities which are rated AA or better by a nationally recognized rating service;

(9) short-term corporate promissory notes of the highest ratings assigned by a nationally recognized rating service;

(10) bankers' acceptances drawn on and accepted by United States banks each of which have a combined capital and surplus aggregating at least $200,000,000;

(11) repurchase agreements, the securities underlying the agreements being any of the items in (1) — (3) and (8) — (10) of this subsection;

(12) the guaranteed portion of Federal Small Business Administration loans;

(13) the portion of first lien real estate mortgages guaranteed by the Federal Veterans Association;

(14) the portions of business and industrial loans made under the Rural Development Act of 1972 which are guaranteed by the Farmer's Home Administration;

(15) the guaranteed portion of Farmer's Home Administration loans;

(16) notes secured by mortgages of residential real estate if the mortgages are insured by a private mortgage insurance corporation which is authorized to do business in Alaska and has combined capital, surplus and reserves aggregating at least $20,000,000; the minimum coverage shall be 10 percent for loans having a loan-to-value ratio of less than 90 percent, and the minimum coverage shall be 20 percent for loans having a loan-to-value ratio of 90 percent or more.

(h) The board may enter into future contracts for the sale of investments purchased under (g) of this section only for the purpose of hedging an existing equivalent ownership position in these securities.

(i) Investments under (g)(8) of this section may not exceed 25 percent of the total investments of the Alaska permanent fund. Investments under (g)(16) of this section may not exceed in the aggregate 15 percent of the total investments of the Alaska permanent fund.

(j) The assets of the Alaska permanent fund may not be used for the purchase of bonds of a corporation, upon which any regular interest payment has been defaulted within five years before purchase, except bonds never in default but which have been outstanding for less than five years.

(k) The board shall establish and from time to time as necessary modify guidelines for the investment of the assets of the corporation. Before adoption of any guidelines the guidelines shall be reported to the Legislative Budget and Audit Committee for review and comment.

(l) The board shall invest the assets of the corporation in in-state investments to the extent in-state investments are available if the in-state investments

(1) have a risk level and expected yield comparable to alternate investment opportunities; and

(2) are included in the list of permissible investments in (g) of this section. (§ 5 ch 18 SLA 1980)

Editor's notes. — Section 9, ch. 18, SLA 1980 provides: "TRANSITION. The commissioner of revenue shall transfer the Alaska permanent fund to the Alaska Permanent Fund Corporation established by this act after request for transfer is made by the board of trustees of the corporation. Notwithstanding AS 37.10.065(a), the commissioner of revenue may invest the money in the Alaska permanent fund in the investments described in AS 37.13.120(g) subject to the limitations of AS 37.13.120(h) and (i)."

REPEALED & REENACTED

Sec. 37.13.130. Gains and losses. At the end of each fiscal year, the total amount of losses on the sales of securities, not offset by gains on the sales of securities during that year, shall be computed, with a

REPEALED

portion of these losses to be deducted each fiscal year from the income and the resulting amount of income added to the principal of the Alaska permanent fund. Losses taken on the sales of securities shall be accumulated over a period equal to the average remaining life of the securities sold, unless these losses are offset by gains on future sales of securities. In any fiscal year in which the gains on the sales of securities exceed the losses on the sales of securities, the excess shall be added to the principal of the Alaska permanent fund. (§ 5 ch 18 SLA 1980)

Sec. 37.13.140. Income. The interest received in a year is the income of the corporation for that year. The income available for disbursement shall be determined on an averaging basis. For the first five years, income will be the simple averaging of the annual current return at cost. Subsequently, there will be a moving average current return, in which the latest fiscal year will replace the oldest year. The income available for disbursement will be the lesser of the latest fiscal year's income, or the average annual current income for the past five fiscal years of the Alaska permanent fund at cost, and after adjustment for capital losses charged to that fiscal year. (§ 5 ch 18 SLA 1980)

Sec. 37.13.150. Board budget. The operating budget of the board is from the general fund and is subject to the Executive Budget Act (AS 37.07.010 — 37.07.130). (§ 5 ch 18 SLA 1980)

Sec. 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. (§ 5 ch 18 SLA 1980)

Cross references. — For the responsibilities of the Legislative Budget and Audit Committee, see AS 24.20.206.

Sec. 37.13.170. Reports and publications. By September 30 of each year, the board shall publish a report of the corporation for distribution to the governor, legislature, and the public. The report shall be written in easily understandable language. The report must include financial statements audited by independent outside auditors, a statement of the amount of money received by the Alaska permanent fund from each investment during the period covered, a statement of investments of the corporation including an appraisal at market value, a description of corporation investment activity during the period covered by the report, a comparison of the corporation performance with the intended goals contained in AS 37.13.020, an examination of the impact of the investment criteria of AS 37.13.010 — 37.13.210 on the corporation portfolio with recommendations of any needed changes, and any other information the board believes would be of interest to the

governor, the legislature, and the public. The annual income statement and balance sheet of the corporation shall be published in at least one newspaper in each judicial district. The income statement and balance sheet for the two fiscal years preceding the publication of the election pamphlet under AS 15.58.010 — 15.58.090 shall be included in that pamphlet. (§ 5 ch 18 SLA 1980)

Sec. 37.13.180. Tax exemption. The corporation is exempt from all taxes and assessments in the state. All security instruments issued by the corporation, their transfer, and their income are exempt from all taxes and assessments in the state. (§ 5 ch 18 SLA 1980)

Sec. 37.13.190. Political activities. The resources of the corporation may not be used to finance or influence political activities. (§ 5 ch 18 SLA 1980)

Sec. 37.13.200. Public access to information. Information in the possession of the corporation is a public record, except that information which discloses the particulars of the business or affairs of a private enterprise or investor is confidential and is not a public record. Confidential information may be disclosed only for the purposes of an official law enforcement investigation or when its production is required in a court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports, items, persons, or enterprises. (§ 5 ch 18 SLA 1980)

Sec. 37.13.210. Definitions. In AS 37.13.010 — 37.13.210,

(1) "board" means the Board of Trustees of the Alaska Permanent Fund Corporation;

(2) "corporation" means the Alaska Permanent Fund Corporation. (§ 5 ch 18 SLA 1980)

Chapter 14. Trust Funds.

Editor's notes. — Section 4, ch. 182, SLA 1978, purported to add an article 2, entitled "University Fund" and consisting of AS 37.14.060 — 37.14.100. Section 27 of ch. 182, however, made article 2 effective on the date that the Board of Regents voted to approve the matters under consideration as provided in § 24 of the act. The Board of Regents disapproved all matters on August 17, 1978. Consequently, article 2 was ineffective.

ALASKA PERMANENT FUND CORPORATION
POUCH SB - JUNEAU, ALASKA 99811
TELEPHONE 907-465-2351

BOARD OF TRUSTEES:
ELMER E. RASMUSON - CHAIRMAN
THOMAS K. WILLIAMS - VICE-CHAIRMAN
WILSON L. CONDON
PETER B. MCDOWELL
GEORGE W. ROGERS
ROBERT W. WARD

RESPONDENT ADDRESS:

TO: Senator Mulcahy, Chairman
Senate Labor and Commerce Committee

FROM: James B. Rhode, Special Assistant to the Trustees
Alaska Permanent Fund

DATE: March 12, 1981

SUBJECT: Sectional Analysis of Sponsor Substitute for SB 684

PREFACE

Nearly one year ago, the Trustees of the Alaska Permanent Fund and the Special Liaison Committee of the Legislature, chaired by Senator Sturgulewski, began a series of seminars and work sessions on the future of the Fund.

From the first, it was agreed to explore the issues in the context of how all the oil revenues were, or might be, spent. This was to insure that any new role for the Fund would be consistent with its fundamental purposes and, too, would be more suitably lodged in the Fund than elsewhere.

Meeting at various points in the state, the group examining the ideas of economists, financial specialists, major Alaskan interests, and the general public. This is further described in the Annual Report of the Fund (pp. 3, 5-7). The analysis offered by various professionals is soon to be published under the heading of The Trustee Papers. A special edition, including formal statements from various groups and citizens, has been compiled for the committees of referral for this bill.

SUMMARY

SB 684 contains three key proposals: (1) having the public members comprise the majority of the Trustees to slow the effects of a change of administration or a change in political moods; (2) revising the list of permitted investments to be the same as for the pension funds (with some added restrictions and excepting gold, which does not produce direct income), as holding the best hope for long-term rates of return that exceed inflation without sacrificing of safety; and (3) reinvesting one-half the Fund's earnings to protect the buying power of the Fund's principal and income from inflation, and providing that the remaining earnings be paid over on the basis of a five-year average with, in effect, a reserve to keep those payments as stable as possible for state planning.

ANALYSIS

Section 1. The replacement of a commissioner by a public member in the composition of the Trustees has the dual effect of giving the public members the working majority and requiring that majority to have special qualifications for their office. In the discussion of this provision, it was felt that the Commissioner of Revenue, as the State chief fiscal officer, must be formally accorded the role that he will always exercise in Administration decisions on the Fund. As well, this insures the Administration will be directly informed of the views of the Trustees. The provision to eliminate one commissioner was to recognize the growing demands placed upon the cabinet in recent years. While noting the advantage of having three commissioners during the organizational phase of the Fund, it was felt that it would be difficult to expect that many to be able to devote the necessary time indefinitely.

Sections 2 and 3 have the practical effect of staggering terms so that a governor will only be able to select all of the Trustees by the last year of his term. This gives a greater measure of independence to the board over existing law (where the next governor would have chosen a majority within six months of taking office), but also mitigates the deletion of existing language (p. 2, lines 2-3) which, on the basis of a decision of the Alaska Supreme Court, does not permit confirmation by the Legislature without constitutional amendment.

In like manner, section 4, requiring that a governor remove only for good cause, is designed to replace the check in the existing statute where the Legislature, by vote, can halt a removal.

Section 5. A majority of the Trustees felt than an annual fee for members of the board was justified on several grounds: The management of a fund of this size will involve working subcommittees and considerable travel to meet with outside fund managers, with financial advisors, and with senior officials in similar institutions. Assuming the likely stature of the public members, it was thought just to compensate them for the significant loss of income entailed by their work, and wise to prevent appointees from stating that personal circumstances limited the amount of time which they could devote. The annual fee, here tied with the salaries of legislators, is to be on the order of $20,000 a year, which is the sum typically paid by leading corporations to outside directors. This figure was consciously set to be insufficient to draw potential appointees for the sake of the fee alone.

Section 6 adds to the list of permitted investments for the Fund with the dual aims of improving long-term, real earnings and giving needed diversity. At present, the Fund is essen-

tially a large "money market" account of the kind now open to many private individuals. However, a number of financial specialists have pointed out that, on average over the decades, these securities have only matched inflation or have been somewhat negative in terms of real earnings. The situation of the past two years, with as much as 6% return above inflation, happened but once before in this century: 1931. Interest rates were then at a bare 1% but price levels had fallen 5%, thus giving a real income of 6%. Based on this historical data, our existing investment list promises few years in which earnings can exceed inflation. In contrast, the investment areas proposed to be added (stocks, income property, and foreign assets) have brought yields in line with the long-term real growth of the United States, 2 to 4% beyond inflation and, in some years, particularly in Japan and the strongest economies of Europe, the gains have been more substantial. To be sure, not all of these investment areas have performed well in every period owing to economic cycles, political and other events, and changes of investor preference. Indeed, our advisors have stressed that no guarantees against fluctuations can be offered for <u>any</u> class of investments, not even the highest grade of U. S. Government securities. (Actually, in recent years, the latter have swung more sharply and more often than other instruments). Hence, the necessity of having, now, a wider selection of proven investment options so that adjustments can be timely and of enough size to win better returns while avoiding reverses - both in a manner consistent with safety of principal.

It would be well to note here that section 7 places limits on the extent to which investments, other than fixed income securities, can be made and the limits are more severe than for the pension funds. The lack of a limit on fixed income securities is not because they afford markedly greater safety; in certain markets, they do not. Rather, the projected growth of the Fund, even with declining revenues, is such that it could, absent restraints, cause these markets to rise and fall by the very fact that it was buying and selling. Further, the limits are proposed by the Trustees as part of their commitment to gain experience in these new areas on a gradual, deliberate basis.

Ironically, our present investment list is not truly "conservative," in the sense of protecting either the current dollars or real worth of the Fund's corpus and income. Our list, by the standards of comparable institutions and court rulings, is more accurately described as "traditional". Most participants in the drafting of this bill were stunned to learn that a $10 billion fund, earning 15% a year, suffering 10% inflation, and paying over al of its returns, would shrink in 30 years to less than $250 million in value. The goods and services that could be purchased with the income of this fund would collapse in the same ratio, from $1.5 billion at today's prices to $89 million in three decades. Or, more graphic still, a dividend

of $1,500 would then buy what $89 will buy today. Accordingly, whether one believes that the Fund's principal should be conveyed intact to the next generation or the Fund's income should be conveyed equally to present and future Alaskans, a portfolio that loses to inflation will serve us at the expense of those who follow. (Please see Appendix A for a more detailed analysis of the financial sections.)

Section 10, 11. Broadly, these sections provide that one-half the net earnings of the Permanent Fund shall be retained in principal and the balance is available for distribution on a five-year average, with any excess to be used to raise payments in a year they would fall below the average. The first is to sustain the real earnings power of the Fund; the second is to give the Legislature a stable income on which to plan.

More specifically, the Fund's earnings can be expected to rise steadily over the next decade as the result of regular contributions and competent management. During this period, more income will be made than is necessary to meet the five-year average, and the excess and the interest on it will build up in the "undistributed income account." In the first year, if that income were to fall below the average, the reserve would be drawn upon. In the event that it was judged that reserves were ample, a larger dividend could be declared or, perhaps, the extra sums could be applied to other purposes by the Legislature.

Section 12 simply provides that the Fund's expenses will be met from the Fund's earnings (as "program receipts"), however, no money may be spent except as provided by the budget. Although the control of the Legislature is not altered in any way, this approach plainly shows what it has cost to make our income, thus allowing the public and legislators to better assess the worth of these expenses. This practice is virtually universal in the accounting of similar private institutions.

Section 13 is to allow the Legislative Budget and Audit Committee to be selective as to which financial and operational reports it prepares, or has prepared, in the light of circumstances. For example, this language would permit the Fund and the Committee to reach mutual agreement on a firm to assess performance in different areas of investment and, further, to reach mutual agreement on definitions of terms, the proper sample of statistics, and the like. This "ground rules" approach will aid fuller disclosure of the Fund's activities while at the same time reduce temptations for either side to craft reports that are merely designed to attack or defend the Fund.

Section 14 brings the Permanent Fund into conformity with the law governing most other boards and commissions.

BUDGETARY NOTES

The Trustees ask that SB 684 be considered together with the Governor's budget request to achieve independent status for the Permanent Fund, and with the fiscal note which provides for outside, specialized firms to carry out the new investment authority under this bill.

Independence for the Permanent Fund has been the clear preference of public and legislative sentiment to date. (Please see the paper on the relevant legislative history prepared by Trustee Peter B. McDowell.) The case for independence, in brief, is that special interests pressing the Fund to win concessions will be more visible in their attempts and that your Trustees can be held to fuller account if they choose their own servants. The last point is not meant to reflect on the present Commissioner of Revenue or the staff of the Treasury. On the contrary, their ready cooperation has been frequently noted in the record of the Trustees. But, it has been the consistent advice of professional managers that " ... those committed to investing must have their operations separate from those committed to spending ...", especially given the " ... great, tempting size ..." of the Fund. In the wealthiest state in the nation, California, where state and local pension assets exceed $30 billion, such a separation has always been maintained.

Still, after independence has been attained, the Fund will have less freedom that any independent board or commission in present law. For the Fund has the most definite charter in state government, is not permitted to spend, does not lend directly to any borrower, and is subject to all the oversight that is applied to a line agency.

As for the fiscal note, the Trustees have agreed that outside managers are best suited to execute the new investment authority in this bill. In addition to our remoteness from the markets involved, there are numbers of reputed firms that can do this work more efficiently, and for less cost, than it can be done internally.

APPENDIX A

ANALYSIS OF FINANCIAL SECTIONS

SSSB 684

Peter A. Bushre

Deputy Commissioner of Treasury

Department of Revenue

Current law provides the corporation with the authority to place funds in direct obligations of the United States Treasury, federal agency securities, certificates of deposit, high-grade corporate bonds, quality short-term investments, and federally guaranteed loans. Management is directed to give preference to Alaska investments as long as they meet the standards of quality set out in the bill. Specifically, deposits can be made in Alaska banks, mutual savings banks, savings and loan associations, and credit unions. Residential real estate (owner-occupied single family dwelling, duplexes, and condominiums) may also be purchased if the mortgage is privately insured by a company doing business in Alaska.

The permanent fund statute has a minimum of investment restrictions yet provides a very definite and certain framework. It does not authorize investments in stock or bullion, restricts the purchase of corporate bonds to 25% of the Fund's total investments, and limits the purchase of loans and mortgages to 25% of the total. Purchases of residential mortgages may be a further 15% of total assets. The statute allows the Fund to use the futures market to protect investments

from severe declines in value that are being suffered today. These futures contracts, however, may be used only to hedge and not to speculate. The statute also prohibits the Fund from either borrowing or guaranteeing the obligations of others.

Section 6 of the bill would amend the present investment list by adding five categories currently authorized for the State pension funds and by conforming other language to the retirement system law. The additional investments are:

1. Commercial mortgages - loans secured by a first lien on commercial properties such as shopping centers, office buildings, etc. The corporation may purchase uninsured loans if the originating financial institution retains at least 25%, or insured loans which meet requirements currently in effect for the pension funds.

2. The common stock of U. S. corporations which have paid dividends in each of the immediately preceding three years.

3. Stocks and bonds that are denominated in foreign currencies or Eurodollars, provided that they are of the same quality as their U. S. counterparts.

4. Bank deposits that are denominated in foreign currencies or Eurodollars, provided that they are readily negotiable or that the issuing bank has capital and surplus of at least $500 million.

5. Equity interests in commingled pools of real estate.

Section 7 of the bill reduces the limit on loans and mortgages to 15% and restricts the investment in foreign securities and bank deposits to the levels which currently prevail in the retirement systems. Common stock and corporate debt are together limited to 50%; both are more restrictive than the pension funds. The bill further limits the permanent fund to no more that 5% of the voting stock of any one corporation, and domestic stocks, with the exception of insurance companies and banks, must be listed on an exchange registered with SEC. Both are identical to current limitations on pension fund investments.

Section 8 would standardize the collateral requirements for deposits with all types of financial institutions, and require them to pledge U. S. government securities, corporate bonds, or mortgages if their certificates of deposit are not freely negotiable.

Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

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State Capitol
Juneau, Alaska 99811

SB 684: Sectional Analysis

Section 1) Changes the composition of the Board of Trustees of the Permanent Fund;

a) Two (THREE) members shall be heads of principal departments of state government, one of whom shall be the commissioner of revenue.

b) Four (THREE) members of the public appointed by the Governor

b) Public members shall have recognized expertise in finance, investment, and business management related fields

c) Board shall annually elect a chairman form among its members

Section 2) Public members shall be appointed for terms of four (THREE) years, with terms to be staggered so that no more than one public members terms expire in one year, and they may be reappointed.

Section 3) Transition to four year terms: at the expiration of a public members term, the governor shall replace or reappoint the present member for a term of four years. Within 90 days of the effective date, the governor shall appoint a public member to replace one of the two commissioners other than the commissioner of revenue, to serve for a term of four years or less, and whose term expires in a year when no other public members term expires. The commissioner who is to be replaced shall continue to serve until the appointment of a replacement.

Section 4) For good cause, the governor may remove a member of the board from office; A written statement of the reason for removal shall be given by the governor, and after a member receives written notice of his removal, he may not participate in board business and his presence will not establish a quorum.

A vacancy on the board shall be promptly filled by appointment of the governor, and the appointee shall hold office for the balance of the term of his predecessor. A vacancy on the board does not impair the authority of a quorum of the board to exercise its powers and duties.

Section 5) Members of the board shall be compensated at an annual fee equal to the salary of state legislators; if the chairman is a public member, he is entitled to

receive a salary equal to the president of the senate or the speaker of the house. All members of the board are entitled to per diem and travel allowances as provided by law for members of state boards or commissions.

Section 6) pertains to the investment authorities of the permanent fund; Items (1) thru items (16) refer to investments which the permanent fund is currently permitted to participate in. Items (1) thru (16) have been amended to include certificates of deposit, term deposits, or the equivalent..... which may be readily sold in a secondary market at prices reflecting fair value. Items (1) thru (16) allow the authority to place funds in direct obligations of the U.S. Treasury, federal agency securities, certificates of deposit, high grade corporate bonds, quality short term investments, and federally guaranteed loans. Specifically, deposits can be made in Alaskan banks, mutual savings banks, savings and loans associations, and credit unions. Residential real estate (owner occupied single family dwellings, duplexes, and condominiums) may also be purchased if the mortgage is privately insured by a company doing business in Alaska. Further, item (16) details the insurance requirements on notes secured by mortgages granting a first lien on commercial or residential real estate improved by completed buildings. Private mortgage insurance corporation must be authroized to do business in Alaska and have a combined capital, surplus and reserves aggregating at least $20 million dollars. Mortgage insurance criteria is as follows:

A. No mortgage insurance is necessary for commercial loans having a loan to value ration of of less than 50%;
   Minimum coverage of other commercial loans shall be 10% for thos having a loan to value ratio of 50% to 60%;
   commercial loans having a loan to value ratio greater than 60% but less than 75% shall be 15%;

B. No mortgage insurance is necessary for residential loans having a loan to value ratio of less than 70%;
   Minimum coverage of loans (residential) having a loan to value ratio greater than 70% but less than 90% shall be 10%:
   Minimum coverage for loans which have a loan to value ratio in excess of 90% shall be 20%;

(17) Relates to commercial mortgages- loans secured by a first lien on commercial properties such as shopping centers, office buildings, etc. The corporation may purchase uninsured loans if the originating financial institution retains at least 25%, or insured loans which meet the requirements currently in effect for pension funds.

(18) Relates to investments in common stock of U.S. corporations which have paid dividends in each of the immediately preceding 3 years;

Section 6 continued:

(19) Relates to investments in stocks and bonds that are denominated in foreign currencies or Eurodollars, provided that they are of the same quality as their U.S. counterparts;

(20) Relates to investments in bank deposits that are denominated in foreign currencies or Eurodollars, provided that they are readily negotiable or that the bank issuing them has capital and surplus of at least $500 million dollars.

(21) Relates to the investment in equity interests in commingled pools of real estate;

These investments may be made in a corporation, partnership, trust, or other entity in which at least 60% of the beneficial ownership interests are held by other institutional investors at the conclusion of each investment transaction.

The corporation, partnership, trust or other entity must be organized and operated for the purpose of making real estate investments by a bank, insurance company, or other manager of institutional funds and have had at least five years experience in the management of real estate investment of institutional investors; or in conjunction with an entity which meets substantially the same criteria.

Section 7) AS 37.13.120 (i) is repealed and reenacted; (i) the aggregate investment of the Alaska Permanent Fund may not exceed the following percentages of the total investmen of the fund:

Mortgages: 15%

Foreign Securities: 10%

Foreign certificates of deposit (or their equivalent): 20%

Corporate stocks and debt securities: 50%

The fund may not own more than 5% of the voting stock of any corporation. Domestic stocks, except for bank and insurance company stocks, must be listed at the date of purchase on an exchange registered with the Securities and Exchange Commission.

Section 8) standardizes the collateral requirements for deposits with all types of financial institutions, and requires them to pledge U.S. government secutities, corporate bonds, or mortgages if their certificates of deposit are not freely negotiable.

Section 9) Repeals AS 37.13.130; See statutes beneath bill; highlighted area

Section 10) Net income of the fund must be computed annually on the last day of the

Section 10) continued fiscal year in accordance with generally accepted accounting principals, excluding any unrealized gains or losses.
Income available for distribution equals the average net income for the last five fiscal years (including fiscal year just ended) but may not exceed the net income for the fiscal year just ended, plus the balance of the undistributed income account described below. (section 11)

Section 11) At the end of the fiscal year, one-half of the net earnings (see section 10) of the permanent fund shall be retained in principal and the balance is available for distribution on a five year average, with any excess used to raise the payments in a year they would fall below the average. The other 50% of the net income, must be transferred to the undistributed income account, and any income in the undistributed income account of the permanent fund must be transferred to principal for reinvestment. Money in the undistributed income account must be invested in authorized investments and income from the investments of the undistributed income account must be treated as an addition to that account.

Section 12) Revenues generated by the investments of the corporation must be identified as the source of the corporations operating budget (program receipts) and the unexpended balance of the annual operating budget does not lapse at the end of the fiscal year but must be treated as income.

Section 13) Legislative Budget and Audit committee may provide for an annual post audit, and operational and performance evaluations of the investments and investment programs of the permanent fund.

Section 14) Board may adopt regulations under the Administrative Procedures Act to interpret and implement the chapter.

Section 15) Effective date of July 1, 1982.

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Investments by percentage limitations as currently authorized under AS 37.13.120 (i)

Corporate debt securities rated AA or better: G(8) 25% of the total investments of P.F.

Notes secured by mortgages of residential real estate G(16) may not exceed in the aggregat
15% of the total investments of P.F.

Permanent Fund investments by percentage limitations and categories (SB 684 section 7)

The aggregate investment of the permanent fund may not exceed the following percentages of the total investments of the fund:

Mortgages under (g) (16); 15%

Real Estate Investments (g) (21); 15%

Foreign Securities (g) (19); 10 %

Foreign certificates of deposit (g) (20); 20%

Corporate stocks and debt securities (g) (8), (9), and (18); 50%

JAY S. HAMMOND
GOVERNOR

683

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 26, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. President:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the investment and management of the Alaska Permanent Fund and to the calculation of income of the fund which will be available for distribution. The bill makes changes of three general types.

First, it will expand the investment authority of the fund to parallel that of the public employee and teacher's retirement funds (with the exception that investment in gold will not be permitted for the permanent fund, as it does not meet the constitutional requirement that all permanent fund investments be "income-producing"). It will add authority to invest in

(1) common and preferred stock of United States corporations on which dividends have consistently been paid;

(2) notes secured by mortgages on commercial real estate;

(3) real estate equity if the investment is made in an entity organized and operated for the purpose of managing real estate investments for institutional investors; and

(4) foreign securities and deposits which are of substantially equivalent quality as permitted domestic investments.

These changes will permit the fund's managers to diversify its investments against risks of large losses due to inflation and currency value fluctuation.

Second, the bill changes the composition of the board of trustees by adding a public member and removing a commissioner. It also provides for an annual fee for each public member equal to a legislator's salary. These changes will recognize the substantial time commitment required for active participation of the board in the management of the Alaska Permanent Fund Corporation.

Third, the bill provides for the corporation's budget to be appropriated from the income of the fund's investments, and for one-half of the net income to be reinvested in the fund. The other one-half will remain available for distribution. The appropriation of the corporation's budget in this manner will permit the application of standard accounting procedures to determine the actual performance of the fund. The reinvestment of one-half of the income will counter the effects of inflation on the real value of the fund, without disturbing the flow of income to the Dividend Fund established under AS 43.23.050.

The bill also makes several minor changes, including (1) revising collateral requirements for certificates of deposit to ensure consistency among the various types of institutions which issue such certificates, (2) eliminating the mortgage insurance requirement for loans with a loan-to-value ratio of less than 70 percent, and (3) authorizing the board to adopt regulations to implement and interpret the relevant statutes.

The Board of Trustees of the Alaska Permanent Fund Corporation has discussed drafts of this bill at public meetings attended by representatives of the Legislative Budget and Audit Committee. The consensus of the board is that this bill will make only those changes necessary to permit prudent investment and management of the fund in times of high inflation and volatile financial markets.

Sincerely,

Jay S. Hammond
Governor

Meetings with Investment Firms
Week of July 6-10

SUMMARY OF INVESTMENT DISCUSSIONS

People in attendance:

Permanent Fund Staff
- James B. Rhode
- Susi Gregg Fowler

Department of Revenue,
Treasury Division
- Peter A. Bushre
- William L. Means

Legislative Budget and Audit
- Steven Rieger

Department of Law
- Laura Davis

The question that rose most frequently in New York was "What is the objective of the Alaska Permanent Fund?" The near unanimous opinion was that this question must be addressed by the Trustees before meaningful discussion can occur on such questions as allocation of investments and investment strategy. Robert Salomon, of Salomon Brothers, asked whether the Board of Trustees realized that if the Permanent Fund paid out more than 3% to 5% of its earnings, a level of earnings above inflation which might be attainable, the Trustees would be operating a fund with diminishing real capital and real income. At such time that the Permanent Fund ceased to grow in real terms, either through inflation or a fall in contributions, it would become self-liquidating. The crucial decision is whether the Permanent Fund is going to pay out real earnings, all earnings or a portion thereof. This is a grave problem being faced today by a growing number of foundations and university endowments. The Rockefeller Foundation, a $1 billion foundation, has grown substantially in nominal terms, but has experienced an actual 35% contraction in real earnings power while the Ford Foundation, a $2.5 billion foundation, has contracted in real earnings power by 55%. If nothing is done to curb these foundations' spending programs, Robert Salomon stated that he could project for their trustees the dates on which they would be totally self-liquidated.

Once the objective of the Permanent Fund has been decided, much will be determined as to level of risk which will be required to meet that objective. Long term studies, for example, have indicated that it is unrealistic to expect to earn more than a 2% real rate of return on a high grade fixed income portfolio, whereas a 3% to 5% real rate of return has been attainable in common stock over an extended period of time. Questioning Salomon Brothers as to what percentage

of common stock that they thought might be appropriate to the Permanent Fund given an earnings objective of a 3% to 5% real rate of return, the response was 80%. U. S. Steel Pension Fund, a pension fund in a mature industry, has approximately 80% of its assets currently in common stock, 10-15% in real estate, and the balance in fixed income securities. As reported by the S. E. C., the typical large corporate pension plan is approximately 55% invested in common stock. The normal asset mix of a portfolio under management by the Prudential Insurance Company of America is 40% to 60% in common stock and 20% to 30% in real estate equity, with the balance in fixed income securities. Mr. William Field, Senior Vice President of Prudential's Asset Management Department, indicated that for reasons of political toleration a 20% commitment to common stock might be more advisable for the Alaska Permanent Fund.

Mr. William Field, Mr. Robert Salomon and Mr. Heath McLendon, President of the investment management firm of Bernstein-Macaulay, Inc. agreed that the Trustees should seek authority from the Legislature to invest in domestic common stock, foreign securities, and real estate equity. They also volunteered that in their respective opinions, the timing for purchases in foreign securities and real estate was not good. However, they all felt that there would be better opportunities in the next two or three years, and any program to make major commitments in foreign securities and real estate should be understood by all to be a three to five year program. However, in their judgment, it is highly desirable to obtain authority as soon as possible so as to maximize flexibility.

With the exception of the U. S. Steel Pension Fund, it was the opinion of those that we contacted that the Alaska Permanent Fund, as a consequence of its sheer size, should utilize an index fund approach for its core holdings of common stock. Mr. William Field suggested that otherwise the investment management fees would become prohibitively expensive. It was suggested that outside managers be utilized in such specialized areas as high technology stocks, energy development stocks, foreign securities, and real estate equity to provide the Permanent Fund an extra increment of yield above that which an index fund would provide. It was the unanimous opinion of those to whom we talked that the significant danger in hiring a number of investment managers to manage the common stock portfolio was that the Permanent Fund would end up de facto as an expensively managed index fund. The largest acceptable number of outside managers suggested by anyone was six, and these six would cover the full gamut of investments from domestic common stock, foreign securities, to real estate equity. If more are hired, the feeling was expressed that the Trustees and staff are apt to find increasingly large segments of their time devoted to monitoring the managers performance and trying to determine how new flows of investable funds are to be allocated among the various investment managers.

Typically most large corporate pension plans are handled by outside investment managers with a number of plans managing only fixed income assets in house. Among the people we visited, only the manager of the U. S. Steel Pension Fund unqualifiedly thought that the entirety of the Alaska Permanent Fund could be managed in house in Alaska. The U. S. Steel Pension Fund is managed entirely in house with a staff of eleven investment professionals. This staff consists

of nine Certified Financial Analysts, one trader, and one specialist in money market and fixed income securities. It is interesting to note, however, that although the headquarters for the U. S. Steel Corporation is in Pittsburgh, the Company chose to run its pension fund out of New York City. Also the manager of the Fund felt that they were not close enough to the European markets to run a portfolio of European securities out of their New York office. Mr. William Field of the Prudential Insurance Company of America, on the other hand, felt on the basis of his experience with governmental bodies that the Trustees would likely have great difficulty in obtaining funding from the Legislature to run an in house operation with first class talent. To attract a top administrator to the Permanent Fund would require, in his opinion, a salary of approximately $250,000 per annum with other positions scaled down to $70,000.

The consensus opinion was that, if the Trustees chose to run fixed income securiti in house, an index fund for core domestic stock holdings, and to choose outside investment managers for other specialized investment areas, a staff of four investment professionals plus clerical help would be adequate to manage a $6 billion or larger fund. Assuming a staff of four investment professionals, one should specialize in fixed income securities; one should manage the index fund; one should monitor the outside managers; and one should have expertise in the field of real estate investments.

In selecting investment managers, the general feeling was that enough information is published regarding the performance of investment managers that the Board of Trustees should utilize its staff to select the most promising managers to make investment presentations before the Trustees. It was also strongly urged by Mr. Heath McLendon and Mr. William Field that the Permanent Fund staff make visits

directly to potential managers' offices to meet their staffs and discuss with them their investment philosophies and how they visualize investing for the Permanent Fund. It was felt that only after the Permanent Fund staff has made its selection of potential managers should a consultant be hired for the specific purpose of reviewing this list to see if any managers of merit have been missed.

It was interesting to note the generally low regard held for performance measurement analysts by most people we visited. While agreeing that they are necessary for public bodies in order to provide an element of comfort to them, they felt that they are expensive and that undue heavy reliance on them may result in inappropriate comparisons. In measuring performance, Mr. William Field strongly urged that the Standard & Poor's 500 not be used as the measurement of performance. Rather, in his opinion, the measure should be the ability of a fund to earn a specific positive rate of return above inflation on a consistent basis. Consistency, in his view, is the most important element of measurement.

In conclusion, there are two basic questions which the Board of Trustees should address before deciding questions of organization and investment strategy. As Robert Salomon said these are questions which your Trustees cannot avoid for they will ultimately be held responsible for the answers whether or not they address the questions directly or leave them to members of their staff. The questions are as follows:

1. What is to be the objective of the Alaska Permanent Fund?
2. How is the corpus of the Alaska Permanent Fund to be allocated to different types of investments?

Once the first question is answered, much will have been determined about the level of liquidity which can be maintained and the parameters of risk that the Permanent Fund will have to assume in order to attain its objective. Quite obviously the level of risk toleration would have to be sustantially higher should the Board seek to obtain a 5% real rate of return as opposed to a 2% real return, and the allocation of investments would have to be concentrated in those areas which have a higher element of inherent risk but also offer potentially greater investment rewards.

INVESTMENT MEETINGS
New York City

Monday - July 6

9:30 A. M. Bache Halsy Stuart Shields Inc.
Bache Building
100 Gold St.
6th Floor
New York City, N. Y.
Sam Plia, Lou Auer, Executive Vice President
212-791-2467

12:00 Noon (To include lunch)
Prudential Insurance Company
Newark, N. J.
William Field 201-877-7979

Tuesday - July 7

11:30 A. M. (To include lunch)
Shearson Loeb Rhoades Inc.
2 World Trade Center
106th Floor
John McDougall 212-577-2718

Wednesday - July 8

10:00 A. M. The First Boston Corporation
20 Exchange Place
8th Floor
(To include lunch)
Gene Boehringer 212-825-2096

3:30 P. M. Discount Corporation of New York
58 Pine Street
Rodney Bird 212-248-8931

6:00 P. M. (To include dinner)
The Leash Club
41 East 63rd St.

Thursday - July 9

11:00 A. M. (To include lunch)
U. S. Steel Pension Fund
General Motors Building
767 Fifth Avenue
Graham Harrison, President & John Van Duesen, Vice President
212-826-8472

3:00 p.m. Buck Consulting Group

INVESTMENT MEETINGS - New York City Continued -

Friday - July 10

10:00 A. M. (To include lunch)
Salomon Brothers
One New York Plaza
42nd Floor
R. S. Salomon 212-747-7000

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

POUCH K – STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

July 31, 1981

Mr. Elmer Rasmuson, Chairman
Board of Trustees
Alaska Permanent Fund Corp.
Box 600
Anchorage, AK 99510

Re: Legal assistance re
investment practices

Dear Mr. Rasmuson:

I am writing to inform you of the current activities of the Department of Law relating to the investment of state funds. As background, the current status of the investment of state funds may be summarized as follows:

The monetary assets of the State of Alaska now consist of four funds: the general fund, the public employees' retirement system fund, the teachers' retirement system fund, and the permanent fund, all of which are managed and invested by the Treasury Division of the Department of Revenue, under the authority and supervision of the commissioner of revenue. The approximate aggregate balance of these funds at present is $4.9 billion (approximately $510 million in the PERS fund, $385 million in the TRS fund, $1.8 billion in the permanent fund, and $2.2 billion in the general fund). These figures represent the amount of money for which the treasury has investment management responsibility (not the amount available for appropriation or expenditure), and they vary from day to day depending on the flow of income and the demand on state warrants.

The investment of each of the four funds is regulated by a separate statute (AS 14.25.180, TRS fund; AS 37.-10.070, general fund; AS 37.13.120, permanent fund; and AS 39.35.110, PERS fund), and in the case of the permanent fund, by a constitutional provision requiring investment only in income-producing assets. Alaska Const., art. IX, § 15. These statutes vary in terms of the list of specific types of investments which are authorized, but each contains a general provision commonly known as the prudent-man or prudent-investor rule.

There is a large body of law interpreting the prudent-investor rule in the context of both public and private funds. It is our opinion that prudence in the management of all of these state funds requires the development and implementation of consistent procedures and practices for the evaluation of investment opportunities, and the execution of investment agreements, which conform to the prudent-investor rule. The development of such routine practices and procedures is particularly important at present, because of the rapidly expanding variety of investment alternatives, the volatility of financial markets, and the rapid expansion of the state treasury.

While in New York with the permanent fund and treasury staff, I met with members of two law firms (Shearman & Sterling, and Debevoise, Plimpton, Lyons, and Gates) to discuss their ability to provide legal assistance on matters related to state investment practices. I also met with the chief general counsel in the Investment Management Group of Citibank, N.A. to discuss matters related to the function of general counsel to an institution which manages large investment funds.

We have retained Shearman & Sterling to assist us in preparation of an agreement related to investment in gold by the retirement funds. We are now discussing with both firms their ideas for assisting us in the development of standard investment practices and procedures as discussed above, and hope to retain one of them for this purpose in the near future. We believe that the development of such investment practices with the assistance of a law firm which is actively involved in advising major public and private financial institutions will be important in helping our investment managers to carry out their fiduciary responsibilities for our rapidly increasing state funds over the next several decades. Our current work in this area is aimed primarily at investment management for the retirement funds and the general fund, but will be directly relevant to developing investment management guidelines for the permanent fund.

Sincerely yours,

WILSON L. CONDON
ATTORNEY GENERAL

By: Laura L. Davis
Laura L. Davis
Assistant Attorney General

LLD/pjg

cc: Thomas K. Williams
Robert W. Ward
George Rogers
Peter McDowell
Jim Rhode
Peter Bushre

A paper on the
Organization and Management of the
Alaska Permanent Fund Corporation

I. History and Objectives

Determination of the appropriate management structure of an organization follows from an understanding of the history and objectives of the organization.

History

On November 2, 1976 Alaska voters by a 2:1 margin approved Ballot Proposition 2, which added the following to Article 9 of the Alaska State Constitution:

> "Alaska Permanent Fund. Section 15. At least twenty-five percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the State shall be placed in a permanent fund, the principal of which shall be used only for those income-producing investments specifically designated by law as eligible for permanent fund investments. All income from the permanent fund shall be deposited in the general fund unless otherwise provided by law."

There is little or no background or elaboration on what was meant by the title "permanent" at that time (1976), but limited research indicates that the common understanding was as defined

by contemporary usage. Two dictionaries in use at the time included the following:

> Permanent: "1. Fixed and changeless; lasting or meant to last indefinitely." (Source: The American Heritage Dictionary of the English Language, 1970). "1. Lasting or intended to last indefinitely without change; continuing in the same state or in the same place, stable, durable, abiding." (Source: Webster's New Universal Dictionary of the English Language, 1976).

Development of legislation

The Legislature and administration, in particular the House Special Committee on the Permanent Fund, then proceeded to evaluate a number of alternative ways of defining "income-producing investments." The major alternatives considered were:

- Activist development bank in the private and public sectors
- Savings account
- Passive trust fund of high-grade investments.

A number of bills were drafted for legislative consideration of these alternatives. This process of evaluation culminated in the drafting of House Committee Substitute for SB 161 and the accompanying Joint Committee Report, approved by the House in 1979. The final bill, which was approved by both houses and signed by the Governor in April 1980, was very similar to the 1979 House bill. The final Free Conference Committee Report

(Appendix I) was virtually unchanged from the 1979 House Joint Committee Report. As can be seen from Appendix II, the final bill also adhered closely to the concerns expressed by the Governor in April 1979.

Corporation objectives

As indicated in the Committee Report, the Corporation, ". . . provides a framework for fiscally conservative and responsible management of the Fund's principal. It assures and emphasizes the safety of the assets . . . The Fund is designed to be a trust which focuses on the safety of principal first and the maximization of earnings second." Safety in this context is not explicitly defined, but at a minimum appears intended to provide that the face amount of fund principal never diminish and that at least some of the effects of inflation be mitigated.

1. Safety of principal

Throughout the legislation and the Committee Report are threads which indicate the legislative view of "safety of principal" included a recognition that some erosion of purchasing power might take place. The risks associated with investments which might yield returns equal to or greater than inflation would be higher than acceptable under the fiscally conservative investment philosophy inherent in the legislation.

2. Maximization of income

The legislation provides that the second major objective is to maximize income from the investments which are available to

the Corporation. Thus investment strategy, in practice, involves choosing among various maturities and issues while maintaining reasonable diversification among the allowable categories of investments.

Scope of the Fund

The present and future scale of the Fund are important considerations for organization and management. The current balance is slightly in excess of $1 billion. It is expected to exceed $2 billion by June 30, 1981 and $12 billion by 1990, without further appropriations to principal. There appear to be strong prospects for additional appropriations, so that $12 billion should be considered the minimum 1990 balance.

II. Management Structure

The legislation and Committee Report provide some guidance as to the intended management structure. The following is quoted from the Accountability section of the Committee Report:

> "It was the aim of the Committee to establish a management system for the Alaska Permanent Fund which would be protected from political influences but, at the same time, responsive to changes in state policy and accountable to the people through their elected officials. In short, the aim was insulation without isolation. It was agreed that the best way of achieving these ends was not to place the management within the Department of Revenue, but to create

a public corporation distinct from state government. Although the Department of Revenue currently manages the pension funds as well as the general fund, it was agreed that the Permanent Fund, with its fundamentally different goals and large size, should not be in the hands of the same people whose primary duty is managing money for day-to-day use by the state. The Corporation is placed within the Department of Revenue for administrative matters such as payroll, but has a legal existence independent of and separate from the state."

Organizational objectives

The Permanent Fund is clearly important enough in its own right, due to its unique existence, purpose and size, to warrant special consideration from an organizational viewpoint. One purpose of a separate corporation is to provide high visibility for the Fund, its management and its investment activities. A second purpose is to provide the structure within which a separate staff, whose time is devoted wholly to the affairs of this Fund, may operate. As noted in the Committee Report, the objectives and the size of the Fund clearly justify the existence of a full-time professional staff to operate the Corporation, in a manner that will enable the Board of Trustees to carry out its responsibilities and achieve the objectives established for the Corporation.

Corporation objectives

The Corporation's objectives might be restated from the statute as:

1. Conserve (i.e., render permanent) a portion of the state's revenues from mineral resources to benefit all generations of Alaskans,
2. Maintain safety of principal in face value terms at a minimum with at least some gains offset against erosion by inflation, and
3. Maximize total return from investments (the investments allowed by statute which were selected primarily to insure safety of principal), in order to allow the maximum use of disposable income for purposes designated by law.

Trustees' responsibilities

The following list of responsibilities has been extracted from the statute and the Committee Report.

1. Manage and invest the assets of the Corporation, in accordance with the "prudent-man" rule, to achieve superior results, i.e. a sound rate of return on investments.
2. Maintain a reasonable diversification among the investment categories permitted by law.
3. Establish and as necessary modify guidelines for investment.

4. Relate to the Legislative Budget and Audit Committee by:

   a) Reporting investment guidelines to the Committee for review and comment before adoption.

   b) Reporting long-range and quarterly investment plans to the Committee.

   c) Working with the Committee to help it carry out its duties with regard to the Permanent Fund, including:

      - Hearings on the confirmation of members of the Board of Trustees
      - Reviews of plans and reports
      - Annual post audits and operational and performance evaluations of Fund investments
      - Recommended changes in policy or legislation

5. Prepare and publish the annual report to the Governor, Legislature and the public. The report must include:

   - Audited financial statements
   - Income from investments
   - Investments at market value
   - Description of investment activity
   - A comparison of performance with statutory goals
   - An examination of the impact of the statutory investment criteria on the portfolio with recommendations of any needed changes in the investment list.

6. Prepare and submit annual operating budgets in accordance with the Executive Budget Act.

III. Conclusion

It appears, from a rev ew of the statute, intent and history, that the Legislature clearly intended the Corporation to be separate from ordinary state government operations in both fact and appearance. It seems that the Legislature felt the Corporation would be more accountable to state government and the public if it had a high profile and maximum organizational visibility.

The Governor and Legislature, through the dividend program, also gave the Alaskan public a personal financial stake in the management of Corporation investments. The level of dividends paid to Fund beneficiaries will rise or fall with the returns on investments.

Finally, there is the impact that the present interim arrangements have on the Department of Revenue, Division of Treasury. The Division is presently being asked to carry out all of its normal responsibilities and the additional burden of Permanent Fund activities without additional staff or budget. These arrangements would not seem to be in the best interest of either the Department or the Board of Trustees.

IV. Recommendation

In view of the above, it is recommended that the Board of Trustees consider the creation of a separate corporate organization of a size and with the levels of full-time professional

investment management that are appropriate to a multi-billion dollar trust fund. The unique nature of the trust fund; i.e., its size, its permanent character and universal group of direct beneficiaries; make it essential that the Board of Trustees have full-time staff support and an organization dedicated to helping the Board meet its objectives and carry out its responsibilities.

V. Plan of Implementation

If the Board agrees with the recommendation of this paper, it could be implemented by carrying out (but not limited to) the following steps:

1. Engage professional consultants to design the organization and handle recruitment of an executive director and staff of say 6-8 persons.
2. Selection of independent professional advisers:
   - Auditors
   - Legal Counsel
   - Investment Performance Measurement consultants
3. Retain the office space and other facilities required.
4. Agree with the Department of Revenue regarding accounting and other administrative arrangements.

PBM

Peter B. McDowell

December 19, 1980

(1) for residential mortgage loans:

(A) under $100,000: .375 percent;

(B) $100,00 – $299,999: .25 percent;

(C) $300,000 and above: .125 percent;

(2) for all other loans:

(A) under $300,000: .375 percent;

(B) $300,000 and above: .25 percent.

(e) Loans will be purchased no more often than once a month at a time set by the corporation.

(f) Each application to have the corporation purchase conventional mortgage loans must be accompanied by the following:

(1) the original loan application;

(2) original appraisal with photographs;

(3) credit report;

(4) deposit verifications;

(5) employment verifications;

(6) earnest money agreement;

(7) credit verifications;

(8) tax returns (three years), if self-employed;

(9) financial statement, if self-employed;

(10) a copy of any audited financial statement if one was required by the S.B.A. or any other public or private entity to make, insure, or guarantee the loan; and

(11) other documents as requested by the corporation.

(g) Except for construction loan take-outs, no refinancing loans will be purchased by the corporation.

(h) No loans will be purchased from an institution which has a current, over-60-day delinquency status for more than .5 percent of all loans purchased from it by the corporation until that delinquency status is reduced to .5 percent or less. (Eff. 2/5/81, Reg. 77)

Authority: AS 37.13.120

15 AAC 137.050. GENERAL TERMS AND CONDITIONS FOR CERTIFICATES OF DEPOSIT. The following terms and conditions apply generally to certificates of deposit purchased by the corporation:

(1) interest on all certificates of deposit must be due annually from date of issue, or at maturity if the maturity date is less than one year;

(2) interest on all certificates of deposit will be calculated on a 360-day basis times actual days in the payment period;

(3) to avoid penalties, principal and interest payments must be received by the corporation in collected funds on or before the due date by wire transfer through the Federal Reserve Bank at a bank designated by the corporation;

(4) any payment for which the due date falls on a weekend or holiday is payable on the next state working day;

(5) all certificate of deposit issuers whose payments are not received by the corporation on or before the due date shall pay an additional day's interest on the principal amount due at the certificate of deposit rate for each day the payment is delinquent in addition to the regular interest accrual. (Eff. 2/5/81, Reg. 77)

Authority: AS 37.13.120

15 AAC 137.060. ACCOUNTING PRACTICES. (a) Annual income equals the total interest actually received during a fiscal year on investments held by the corporation, minus the amount transferred to principal to amortize net losses as provided in (b) of this section.

(b) At the end of each fiscal year, losses to the fund will be treated as follows:

(1) All gains on the sale of investments during the fiscal year will be offset against losses in the following order:

(A) first, all losses on the sale of investments during the same fiscal year; then,

(B) the balance of net losses remaining from prior fiscal years, with priority to the oldest losses.

(2) If losses exceed gains during a fiscal year, the net losses will be divided by the average remaining life of investments sold at a loss during that year and that amount of interest will be transferred to principal. A similar transfer of interest to principal will be made for each prior year from which a net loss remains, until all losses are absorbed over the average remaining life for that fiscal year, or are offset as provided in (1) of this subsection.

(c) Income available for disbursement under AS 37.13.140 will include interest earned on that amount, at the actual average yield rate for the permanent fund, from the end of the latest fiscal year until the date of transfer of the money to the dividend fund. (Eff. 5/31/81, Reg. 78)

Authority: AS 37.13.120
AS 37.13.130
AS 37.13.140

15 AAC 137.200. DEFINITIONS. In 15 AAC 137.010 – 15 AAC 137.200

(1) "certificate of deposit" includes

(A) certificates of deposit;

(B) shares of federally-chartered savings and loan associations in the form of time certificates;

(C) savings certificates issued by state-chartered savings and loan associations;

(D) deposits with mutual savings banks in Alaska in the form of time certificates; and

(E) fixed-term certificates of indebtedness, as those terms are used in AS 37.13.120(g)(3)–(7);

(2) "corporation" means the Alaska Permanent Fund Corporation;

(3) "Fm.H.A." means the federal Farmers' Home Administration;

(4) "GNMA" means the federal Government National Mortgage Association;

(5) "loan" includes a mortgage loan;

(6) "mortgage loan" means a loan secured by a first-lien security interest in real property improved by one or more buildings;

(7) "S.B.A." means the federal Small Business Administration;

(8) "V.A." means the federal Veterans' Administration;

(9) "average remaining life" means the figure obtained as follows: for each investment sold at a loss during the fiscal year, the loss is multiplied by the remaining life; the sum of these products is divided by the total loss for that fiscal year;

(10) "gain" means the amount by which the principal proceeds of the sale of an investment exceed the cost of the investment;

(11) "investment" means any transfer or expenditure of money or other assets made for the purpose of obtaining an income or profit;

(12) "loss" means the amount by which the cost of an investment exceeds the principal proceeds of the sale of the investment; and

(13) "remaining life" means the number of years remaining until the maturity date of an investment. (Eff. 2/5/81, Reg. 77; am 5/31/81, Reg. 78)

Authority: AS 37.13.120
AS 37.13.130
AS 37.13.140

THE CASE FOR COMMON STOCK

One investment paradox is that common stock can be used to reduce portfolio risk. For example, adding small amounts of common stock to bond portfolios will usually reduce the standard deviation of total portfolio returns. This is due to the "magic" of diversification. In many years, such as 1979-80, stock prices go up while bond prices go down and stocks thereby provide a cushion against bad bond markets. To make this point even more specific, Salomon Brothers reports that an average which they maintain of a variety of both short and long term debt, securities provided total returns of 1.2% in 1979 and .1% in the first nine months of 1980. By contrast, the Standard & Poor's Composite Index produced total returns of 18.2% and 20.6% for the respective periods. Listed below are the total returns for common stock management achieved by Alliance Capital Management Corporation for the Alaska Teachers' Retirement System for the past six calendar years.

Performance Review

Yearly Summary	Rate of Return
1980 through Sept. 30	27.5%
1979	18.5%
1978	7.8%
1977	-3.4%
1976	23.4%
1975	28.8%
1974	-17.5%

Cumulative Return Since Inception - 106.5%

Even though there has been seemingly endless streams of negative news including ever-higher oil prices, the Iran crisis, continued double digit inflation, and rising interest rates, there are good reasons for viewing the common stock market as affording a good, long term investment opportunity.

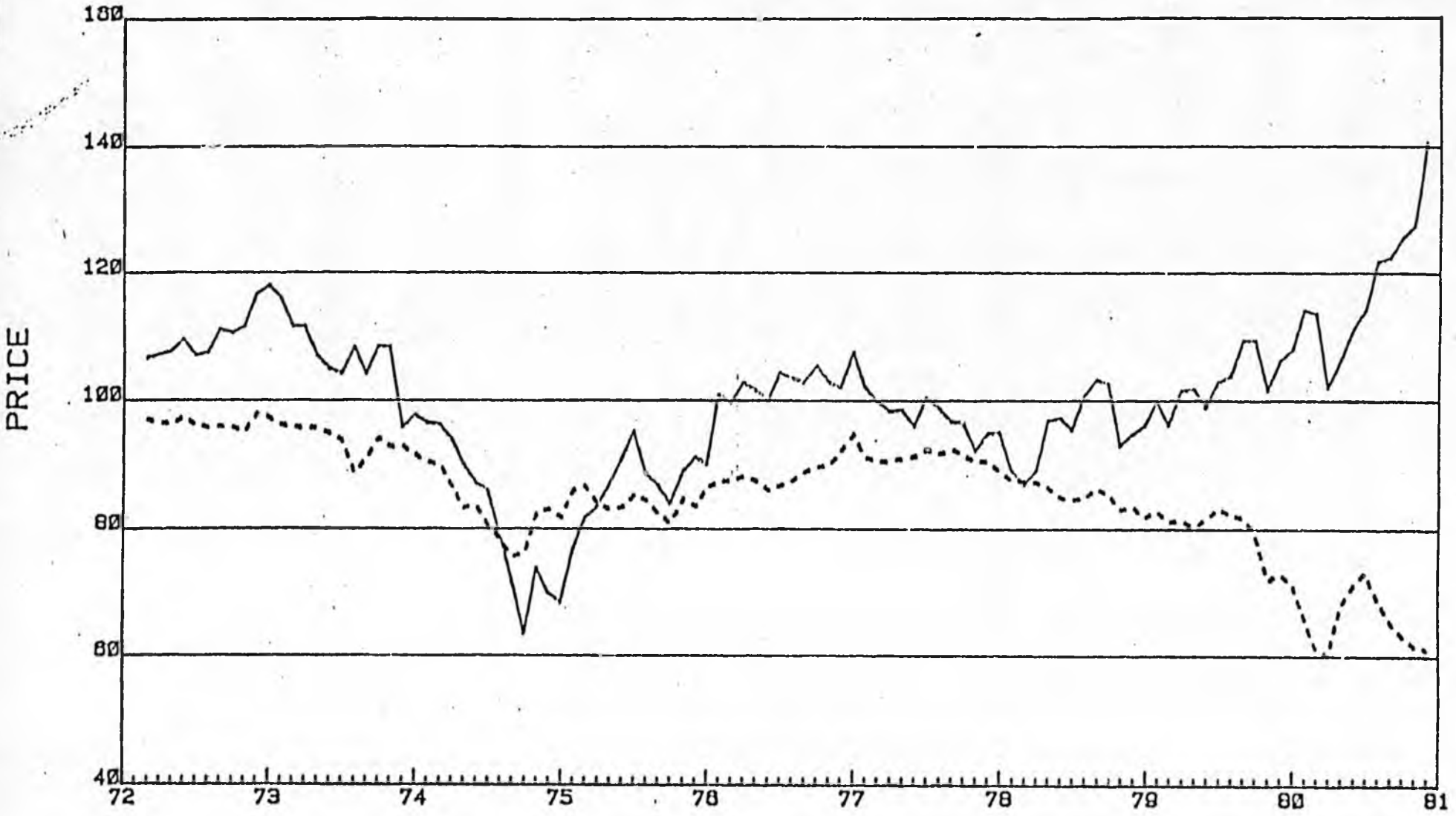
The common stock of many companies is selling well below book value at a time when replacement costs are rising more rapidly than general price levels. At a time when diamonds, paintings, and condominiums in California have reached record levels, the assets of many American corporations are still selling at a fraction of their replacement value. From an earnings standpoint, the progress of American corporations, notwithstanding two recessions, has been dramatic. From 1969 to 1979, the Standard & Poor's 500 was flat. Corporate profits during the same period tripled.

Since 1969, private pension funds have substantially reduced their holdings in common stocks. Insurance companies have reduced their equity positions to extreme low points. For example, fire and casualty companies hold only 12% of their assets in equities. Foreigners likewise hold a

PRICE PROFILE

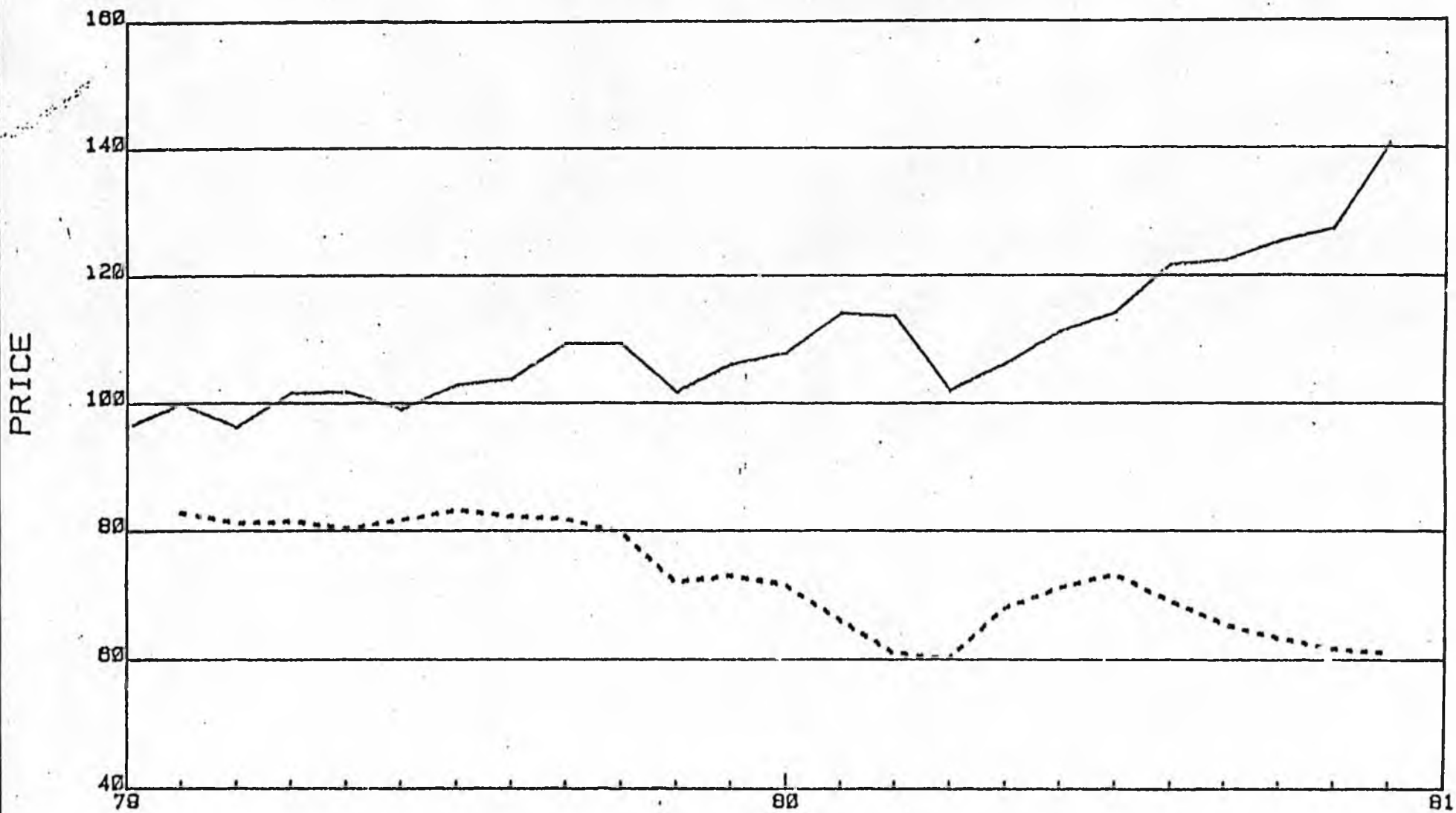
PREPARED FOR THE STATE OF ALASKA

MONTHLY DATA



PRICE PROFILE

MONTHLY DATA - 12/78 TO 12/80



TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 684
Title Relating to Investment & Management of the Alaska Permanent Fund
Requested by Date 1/22/82

II. FISCAL DETAIL
Agency Affected Department of Revenue
Program Category Affected Revenue Collection and Management
BRU, Program, Or Subprogram(s) Affected Permanent Fund Corporation
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		94.4	103.8	114.2	125.6	138.2
200 TRAVEL		(28.8				
300 CONTRACTUAL		6,119.7	6,989.6	8,775.4	9,914.5	11,159.7
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		6,185.3	7,093.4	8,889.6	10,040.1	11,297.9

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
Permanent Fund Income		6,185.3	7,093.4	8,889.6	10,040.1	11,297.9

POSITIONS

FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

Personal Services is for four public members of Board of Trustees to be compensated at salary prescribed for state legislators. Reduction in Travel for deletion of $100/meeting day honorarium budgeted for present public members.

Contractual Services is for associated costs of new allowable investments for outside management fees were applicable and related safekeeping. Assumes, of average Fund balance for a fiscal year, 25% in preferred and common stock, 5% real estate equity, 5% foreign securities, 10% foreign certificates of deposit or equivalent; all percentages used are one-half of maximum allowed. Fee rate level for FY 83 and FY 84; 10% fee increase assumed with FY 85 and after (not per year). Reduction in regular safekeeping cost accounted for as securities shift from present pool to other categories. Brokerage fee on preferred and common stock not included as that is part of base security cost.

Anselm C. Staack

IV. DATE January 22, 1982 PREPARED BY Anselm C. Staack, Treasury Comptroller
AGENCY Dept. of Revenue/Treasury Division
PHONE 465-2350

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

33-001 (Rev. 12/81)

SB
700

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811

Phone: 465-2700

January 15, 1982

The Honorable Bob Mulcahy
Chairman, Senate Labor & Commerce Committee
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy:

Thank you for spending time to discuss the Department of Labor and legislation for the 1982 session. I mentioned to you that we were looking for a sponsor for several bills. One of these is "An Act relating to elevator safety standards".

This bill amends AS 18.60.800 to adopt the current American National Standards Institute Safety Code for Elevators and Escalators as the minimum elevator safety code for the state, and adopts the current National Safety Practice's inspector's manual as the guide for Department of Labor elevator inspectors.

The bill adds AS 18.60.830, to provide that municipalities may adopt their own standards as long as those standards are at least as stringent as those required under AS 18.60.800.

AS 18.60.810 is repealed in Section 5 of the bill. The current safety code adopted in section 1 of the bill requires an emergency power source for elevators, making AS 18.60.810 unnecessary.

Your consideration to sponsorship of this bill by the Senate Labor and Commerce Committee would be appreciated. A draft of the bill is enclosed with a fiscal note that is zero.

Thank you.

Sincerely,

Judy Knight

Judy Knight
Special Assistant

Enclosures

07-G9LH

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-4870

February 17, 1982

The Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V, State Capitol
Juneau, AK 99811

Dear Senator Mulcahy:

This is in response to the questions from your committee concerning Senate Bill #700, "An Act relating to Elevator Safety Standards." The question originally posed was how many elevators in the state do not meet the code concerning the installation of telephones for emergency use.

In reviewing this question with our elevator inspector in Anchorage I find that we do not have a definitive answer. When the Legislature first passed the Elevator Safety Code in 1978 the same standard was included in that code. In order to avoid a substantial capital investment by the owners of such elevators, we promulgated regulations (specifically 8 AAC 77.085, copy enclosed) which allowed the Department of Labor to issue a variance for any elevator not meeting the safety standard. Under an initial inspection of all elevators, if all other safety requirements were met a variance was issued for existing elevators which did not have the telephone installed at that time. The initial study by our elevator inspector showed that the cost of telephone installation in existing elevators to comply with this code would cost between $5,000 and $15,000 depending on the number of elevators in the building. The department did not feel that owners of buildings should have to incur these costs; therefore variances were issued for existing installations. New installations are now required to meet the safety codes.

Also attached for your information and review is a copy of our summary of those sections of the 1981 Safety Code which have been amended or changed from the 1978 Elevator Safety Code. Generally speaking, the new code brings into consolidation (1) the Basic Building Code; (2) the National Building Code; (3) the Standard Building Code; and (4) the Uniform Building Code with respect to fire resistance, ratings, earthquake protective devices, alteration, repairs and/or replacements. Therefore, all codes are uniform in addressing the safety codes for installation of elevators, escalators, etc.

07-GBLH

The other important features which have been incorporated in the code are those regarding venting, as well as the operations of elevators under fire or other emergency conditions. These highlighted rules are enclosed for your review.

The department will be happy to provide additional information or further testimony. Please accept my apologies for the department's inability to thoroughly respond to the committee's questions and concerns.

Sincerely,

Judy Knight

Judy Knight
Special Assistant

JK/mjs
D-59

Enclosures

(b) A person whose certificate of operation has been suspended, revoked, or denied may appeal the decision to the commissioner in the manner set out in sec. 130 of this chapter. (Eff. 10/21/79, Reg. 72)

Authority: AS 18.60.800
AS 23.05.060(5)

ARTICLE 3.
INSPECTION FEES

Section
65. Inspection fees

8 AAC 77.065. INSPECTION FEES. An owner of an elevator inspected by the department, shall pay the inspector upon completion of the inspection, the following fees:

(1) elevator or workmen's hoist	
(A) 1–3 floor stops	$ 45.00
(B) 4–9 floor stops	55.00
(C) 10–14 floor stops	65.00
(D) 15–19 floor stops	75.00
(E) 20–24 floor stops	85.00
(F) 25–29 floor stops	100.00
(G) Each additional 5 floor stops	25.00
(2) escalator	45.00
(3) moving walk	45.00
(4) stage and orchestra lift	45.00
(5) dumbwaiter/manlift	35.00
(6) special inspections; travel, per diem expense and applicable time charge	
(A) one-half day, four hours or less	75.00
(B) full day, four to eight hours	150.00

(Eff. 10/21/79, Reg. 72)

Authority: AS 18.60.800

ARTICLE 4.
VARIANCES

Section
85. Variances

8 AAC 77.085. VARIANCES. (a) The owner of an elevator desiring a variance from a safety standard adopted in or under AS 18.60.800 may file a written request for variance with the Director of the Wage and Hour/Mechanical Inspection Division, P.O. Box 630, Juneau, Alaska, 99811.

(b) A request filed under (a) of this section must include

(1) the name and address of the applicant;

(2) the name and address of the place where the apparatus is located;

(3) specification of the standard or portion of it from which the applicant seeks a variance;

(4) a statement of facts showing that the applicant is unable to comply with the standard and the alternate steps (with specific dates) which the applicant proposes to take in order to substantially comply with the standard;

(5) a statement addressing the effect a grant of a variance will have on the physical safety of persons in or around the elevator; and

(6) a statement of present steps the applicant has taken to safeguard persons against the hazards covered by the standard.

(c) After review of the request and the inspector's final recommendations, the director may approve or deny an application for a variance from a safety standard.

(d) The department denial of a variance from a safety standard may be appealed to the commissioner in the manner set out in sec. 130 of this chapter. (Eff. 10/21/79, Reg. 72)

Authority: AS 18.60.800
AS 23.05.060(5)

ARTICLE 5.
VIOLATIONS

Section
105. Violations
110. Remedy of violations

8 AAC 77.105. VIOLATIONS. (a) During the course of his inspection, the inspector will make a written note of any violations of the applicable safety standards that he has observed.

(b) At the close of an inspection, the inspector will review his findings with the owner of the elevator and provide him with copies of the inspection report. If the owner of the elevator is not present, the inspector will deliver to or

MEMORANDUM State of Alaska

TO: Al Gordon, Deputy Director
Division of Labor Standards & Safety

DATE: February 17, 1982

FILE NO:

TELEPHONE NO: 264-2447

FROM: Don Cather, Chief
Mechanical Inspection
Division of Labor Standards & Safety

SUBJECT: Elevator Code

The 1981 edition of the elevator code has several changes which make it compatible with other uniform codes. Past editions of the elevator code had many of its own standards, which created problems for design engineers, because of differences between similar codes. Normally, the similar code is the Uniform Building Code.

The 1981 edition of the Elevator Code will reference the Uniform Building Code, thus allowing the mechanical engineer to use this standard uniform reference.

Some sections addressed in using the Uniform Building Code are:

Both Rule 100.Ib, covering the fine rating of hoistways and Rule 100.4a covering venting of hoistways are covered by the Uniform Building Code.

Other major new changes for new elevators are:

Rule 204.4m Manual Opening of Car Door.

Passenger elevator car doors shall be so arranged that when a car is stopped within the landing zone and power to the door operator is cut off, the door may be moved by hand.

Rule 509.1 Emergency Signals.

A telephone connected to a central telephone exchange shall be installed in the car and an emergency signalling device operable from inside the car and audible outside the hoistway snall be provided.

Rule 211.3

When elevators are operated under fire or other emergency conditions and have a travel of more than 25 feet, the elevator shall have a emergency recall operations switch. This keyed switch opens the elevator car door at levels designated by the firemen.

Rule 1101.1

Outlines the recommended tests and frequency of elevator safety devices. These include testing the governor, stop buttons, hoistway safeties.

Rule 1201.2b

Rule applies where major alterations are made to valves, piping, installation of electrical or mechanical interlocks which relate to the safety of the elevator.

Finally, one of the other major changes is in appendix F and covers seismic requirements. This appendix serves as a guide for design, construction, installation, and operation of elevators when installed in major seismic zones.

Should an owner have problems with the safety requirement regulation, 8 AAC 77.085 allows for a variance if a written request is received.

In most instances, a less-costly agreement has been reached with the elevator owner in buildings where there is not a telephone operator. An example is in schools where the elevator is used only for handicapped and may be operated only with a key. The school administrator closes the elevator at the end of each day taking it out of public usage.

DC:gs
B:47

COMMITTEE MINUTES FORM

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

Committee Name: Senate Labor and Commerce
Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Ziegler

Date: 10 February, 1982

Senator Rodey was excused from a call of the Senate;

Public hearing or committee meeting on: SB 648, SB 663, and SB 700;

COMMITTEE CALENDAR

SB 700	"An act relating to elevator safety standards"
bill number	bill title
bill number	bill title

WITNESS REGISTER

Witness Name: Mr. Al Gordon, Department of Labor
Affiliation: Department of Labor
Address: Juneau, Alaska 99802
Phone:
Summarized Position Statement: Supported the adoption of the 1981 American National Standards Institute Safety Code for elevators and escalators.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formally Considered:

Member Moving Adoption: Bill to be retained in committee pending receipt of additional information;
Action: Passed or Failed
Voting Record:

ACTION NARRATIVE

Tape Recording Number 0000

Chair opens at 283 with members 3 present etc.

begins
Mr. Gordon's testimony at tape reading 285 and continues through tape reading 418.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No.
Title "An Act Relating to Elevator Safety Standards".
Requested by Senate Labor & Commerce Date 1/15/82

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Labor Standards & Safety
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

IV. DATE 1/15/82 PREPARED BY Judy Knight, Special Assistant
AGENCY Labor
PHONE 465-2700

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SB
701

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 701:

A generation and transmission cooperative (G&T) is a cooperative which is owned by and supplies wholesale power to other cooperatives which in turn distribute electricity to retail consumers. A G&T could be formed under AS 10.25 as it is except that it would have to be organized by at least 5 member cooperatives as incorporators. The effect of SB 701 is to permit a G&T cooperative to be organized by any number of distribution cooperatives. Even one distribution coop would be able to form a G&T which would then own the generation and transmission facilities to serve that one coop.

Background: In the lower 48, electric cooperatives joined together in groups many years ago to organize G&T's. The G&Ts either buy or generate electricity which is then sold to the distribution coops at wholesale. This has not happened in Alaska because most of the coops here are physically separated form each other, and each isolated utility has to generate its own electricity.

Regulations by the Federal Rural Electrification Administration (REA) make it desireable in many cases for generation and transmission facilities to be owned by a G&T even if the G&T only serves one distribution coop. REA requires a distribtution coop to maintain a Times Interest Earnings Ratio (TIER) of 1.5. This means that the net earning operating margin has to be at least half as much as the coop pays for interest on its long term debt. A G&T is only required to have a TIER of 1.0, or in other words is only required to break even.

The effect of these REA regulations is to permit lower electric rates to consumers if the distribution coop buys its wholesale power form a G&T instead of generating its own electircity. This really becomes important when the G&T facilities are capital intensive-- as in a coal fired or hydroelectric generating plant or a long transmission line.

Conclusion: SB 701 is needed by the electric coops to help keep their electric rates as low as possible.

February 10, 1982

ALASKA PUBLIC UTILITIES COMMISSION

Comments on Senate Bill No. 701 and House Bill No. 678.

The Commission has been informed by ARECA that the purpose of this legislation is to allow fewer than five members to form a generation and transmission cooperative. The Commission is supportive of this intent.

(1) the name of the cooperative;

(2) the address of its principal office;

(3) the names and the addresses of the incorporators;

(4) the names and addresses of its directors.

(b) The articles may contain any provisions not inconsistent with this chapter which are considered necessary or advisable for the conduct of its business. The articles shall be signed by each incorporator and acknowledged by at least two of the incorporators, or on their behalf, if they are cooperatives. It is not necessary to recite in the articles the purpose for which the cooperative is organized or any of its corporate powers. (§ 7 ch 93 SLA 1959)

Sec. 10.25.070. Bylaws. The board of directors shall adopt the first bylaws of a cooperative to be adopted following an incorporation, conversion, merger or consolidation. Thereafter the members or district delegates shall adopt, amend or repeal the bylaws by the affirmative vote of a majority of those members or district delegates voting on the adoption, amendment or repeal at a meeting of the members or district delegates. The bylaws shall set forth the rights and duties of members, district delegates and directors and may contain other provisions for the regulation and management of the affairs of the cooperative not inconsistent with this chapter or with its articles of incorporation. (§ 8 ch 93 SLA 1959; am § 1 ch 136 SLA 1968)

Effect of amendment.—The 1968 amendment inserted references to district delegates throughout this section.

Legislative committee report.—For legislative committee report on ch. 136, SLA 1968 (HB 559), see House Journal (1968), p. 573.

Sec. 10.25.080. Members. Each incorporator of a cooperative shall be a member of the cooperative. No other person may become a member unless he agrees to use electric energy, or telephone service, or other services furnished by the cooperative when they are made available through its facilities. Membership in a cooperative is not transferable, except as provided in the bylaws. The bylaws may prescribe additional qualifications and limitations on membership. (§ 9 ch 93 SLA 1959)

Sec. 10.25.090. Meetings of members. (a) An annual meeting of the members of a cooperative shall be held at the time and place provided in the bylaws. An annual meeting of the members of a cooperative which has been divided into districts as provided for in § 190 of this chapter may consist of separate annual meetings of the members of each district.

(b) Special meetings of the members or district delegates may be called by a majority of the board of directors or by not less than 10 per cent of all members or 10 per cent of all district dele-

SB

724

JAY S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 5, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which clarifies the applicability of overtime compensation statutes to work performed on public contracts and imposes sanctions for a contractor's failure to comply with those statutes.

The bill would limit the prevailing wage requirement in public works projects to those projects whose costs exceed $25,000 (rather than the present $2,000). This will avoid subjecting employers on small projects (usually one-, two-, and three-person operations) to the extensive reporting requirements of AS 36.05 -- which in themselves increase the cost of doing business.

The bill would also require payment of time-and-a-half compensation to a worker for work in excess of eight hours a day or 40 hours a week, thus eliminating any question that laborers on public construction contracts have the same overtime protections afforded all employees under AS 23.10.060.

The bill establishes or clarifies five provisions relating to the enforcement of the provisions of AS 36.05. First, it allows the Department of Labor to accept assignment of wage claims under the chapter and to pursue claims on behalf of a class of employees whether or not a wage assignment has been filed. The department often uncovers violations of AS 36.05, but is arguably precluded from collecting wages due on behalf of employees who have not requested its assistance. This amendment avoids that problem.

Second, it provides that even if a public works contract does not set out the conditions which AS 36.05.070(c) requires to be included, these conditions are considered included in the contract. This precludes an employer from avoiding compliance with the chapter when a government agency fails to incorporate AS 36.05.070(c) in the public works contract.

Third, it authorizes the Department of Labor to bar persons who have failed to comply with the overtime and prevailing wage requirements of the chapter from being awarded public works contracts for up to three years. These persons would be entitled to the full protection of the adjudication portion of the Administrative Procedure Act (AS 44.62) and to court review.

Fourth, it authorizes the attorney general to seek injunctive relief and civil penalties in the superior court for failure to comply with AS 36.05. Under existing AS 36.05.060, violation of the chapter is a misdemeanor. This enforcement mechanism has not been effective because of the nature of the penalty and the criminal standard of proof.

Fifth, the bill clarifies the definition of "public construction" or "public works", to exclude regular maintenance for the preservation of existing properties or facilities.

The bill includes a Jan. 1, 1983 effective date, to give adequate notice of the changes to contractors.

Sincerely,

Jay S. Hammond
Governor

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 724

Section 1) Contractor performing work on a public construction project in the State, the cost of which exceeds $25,000, shall pay the current wage rate for work performed in the region (for work of a similar nature), based upon the latest prevailing wages rate as published by the Department of Labor, before the end of the pay period.

Section 2) Adds new section to AS 36.05 requiring the payment of overtime to workers on public construction projects, if the worker works more than 8 hours a day or more than 40 hours a week.

Section 3) Outlines the authority of the Dept. of Labor to take an assignment of a wage claim for the full amount an employee is entitled to, and to allow the Department to seek recovery of wages for all persons on a public construction project for whom wages are due, regardless of whether a wage claim has been filed.

Section 4) Stiffens penalties for violation of AS 36.05; if a court finds that a person has violated a provision of AS 36.05, the A.G., upon petition to the court, may recover on behalf of the state, a civil penalty of up to $5,000 for each violation. A separate penalty could be imposed for each day the violation exists. A person who violates the terms of an injunction or a restraining order issued under the chapter, would be subject to a civil penalty of up tp $25,000 for each violation. Currently, a violation of this chapter is a misdemeanor punishable by a fine of $100- $1,000 per day or from 10 to 90 days in jail or by both.

Section 5) Amends AS 36.05.070(a) requiring the payment of minimum prevailing wages on public construction contracts exceeding $25,000. Wage rates shall be adjusted to the wage rate for each pay period applicable under AS 36.05.010. See section 1 of the sectional.

Section 6) In the event that the Department of Labor has recieved notification that wages have not been paid as required under AS 36.05.010-015, the state or political subdivision shall withhold a portion of the payment due the contractor as is necessary to pay the laborers, mechanics, or field surveyors employed by the contractor.

Section 7) For all public works contracts, the State shall pay the amount withheld to the Department of Labor for disbursement directly to the laborers who have not been paid the rates of wages required by the contract.

Section 8) Adds a new section which states: A registered apprentice in a craft is entitled to be paid at least at the rate for a apprentice in that craft set by the US Department of Labor.

Section 9) Rewrites AS 36.05.090 which relates to the payment of wages from withheld payments and a listing of contractors who violate contracts. Allows Dept of Labor to bar contractors who violate law from being awarded contracts for up to three years. Person who has been barred may appeal the Departments decision to the Superior Court within 30 days of receiving the Departments decision.

Section 10) Adds a new section; When requested by the Department of Labor, the A.G. may :

1) enjoin in an act or practice which violates a provision or regulation of this chapter
2) Order payment of wages from the employer or surety
3) enjion a person found in violation of this chapter from continuing to work on an existing public construction contract
4) impose a civil penalty under AS 36.05.060.

Further provides that in cases where the court has enjoined a person form work (further) on a project, the State or political subdivision could complete the work.

Section 11) Amends definition of "public construction" and"public works" by adding: "the terms do not include regular maintanance for the preservation of existing property or facilities.

Section 12) repeals AS 36.10.020 (see statutes)

Section 13) This act takes effect January 1, 1983

Sec. 36.05.030. Authority. (a) The Department of Labor has the authority to determine the prevailing wage, and whether or not §§ 10—110 of this chapter are being violated. The department may when necessary for the enforcement of §§ 10—110

(1) conduct investigations and hold hearings concerning wages;

(2) compel the attendance of witnesses and the production of books, papers and documents;

(3) promulgate regulations.

(b) If a person violates §§ 10—110 of this chapter the attorney general shall, when requested by the Department of Labor, enforce these provisions. (§ 14-2-3 ACLA 1949; am § 2 ch 142 SLA 1972)

Effect of amendment. — The 1972 amendment rewrote this section.

Sec. 36.05.035. Notification of contract awards. Upon awarding a public construction contract, the state or a political subdivision of the state shall

(1) immediately notify the commissioner of labor of the amount of the contract, the effective date of the contract, the identity of the contractor and all subcontractors, the site or sites of construction and provide a project description; and

(2) verify that the bonding requirements of ch. 25 of this title have been met and that the requirements of AS 08.18 have been met. (§ 3 ch 142 SLA 1972)

Sec. 36.05.040. Filing schedule of employees, wages paid and other information. All contractors or subcontractors who perform work on a public construction contract for the state or for a political subdivision of the state shall, before the Friday of each week, file with the Department of Labor a sworn affidavit for the previous week, setting out in detail the number of men employed, wages paid, job classification of each employee, hours worked each day and week, and other information which the Department of Labor requires. (§ 14-2-4 ACLA 1949; am § 4 ch 142 SLA 1972)

Effect of amendment. — The 1972 amendment rewrote this section.

Sec. 36.05.050. Hours to constitute day's work.

Repealed by § 1 ch 3 SLA 1973.

Editor's note. — The repealed section derived from § 14-2-5 ACLA 1949; § 5, ch. 142, SLA 1972.

Sec. 36.05.060. Penalty for violation of this chapter. A contractor who violates this chapter, is guilty of a misdemeanor, and

upon conviction is punishable by a fine of not less than $100 nor more than $1,000, or by imprisonment for not less than 10 days nor more than 90 days, or by both. Each day a violation exists constitutes a separate offense. (§ 14-2-6 ACLA 1949; am § 6 ch 142 SLA 1972)

Effect of amendment. — The 1972 amendment, in the first sentence, deleted "subcontractor, or agent of a contractor or subcontractor, foreman or employer" following "contractor," deleted "§ 50 of" following "violates," substituted "$100" for "$50," and substituted "$1,000" for "$500." The amendment also added the last sentence.

Sec. 36.05.070. Wage rates for laborers and mechanics on public contracts. (a) The advertised specifications for a public construction contract exceeding $2,000 to which the state or a political subdivision of the state is a party which requires or involves the employment of mechanics, laborers, or field surveyors shall contain a provision stating the minimum wages to be paid various classes of laborers, mechanics, or field surveyors.

(b) Repealed by § 17 ch 142 SLA 1972.

(c) A contract for public works in the state or a political subdivision shall contain provisions that

(1) the contractor or his subcontractors shall pay all employees unconditionally and not less than once a week;

(2) wages may not be less than those stated in the advertised specifications, regardless of the contractual relationship between the contractor or subcontractors and laborers, mechanics, or field surveyors;

(3) the scale of wages to be paid shall be posted by the contractor in a prominent and easily accessible place at the site of the work;

(4) the state or a political subdivision shall withhold so much of the accrued payments as is necessary to pay to laborers, mechanics, or field surveyors employed by the contractor or subcontractors the difference between

(A) the rates of wages required by the contract to be paid laborers, mechanics, or field surveyors on the work, and

(B) the rates of wages in fact received by laborers, mechanics or field surveyors. (§ 1 ch 52 SLA 1959; am §§ 7, 8, 17 ch 142 SLA 1972)

Cross reference.—As to wage rates on public construction, see AS 36.05.010.

Effect of amendment. — The 1972 amendment, in subsection (a), inserted "public construction" and deleted "for the construction, alteration, or repair including painting and decorating of public buildings or public works of the state or a political subdivision" formerly appearing between "state is a party" and "which requires." The amendment also repealed subsection (b) and, in

subsection (c), substituted "shall withhold" for "may withhold" near the beginning of paragraph (4).

Similarity to Davis-Bacon Act. — This section, AS 36.05.080—36.05.110, and former AS 36.05.120 were copied almost word for word from the federal act on the same subject, the Davis-Bacon Act (40 USC 276a et seq.), 1961 Op. Att'y Gen., No. 17.

"Construction" has no reference to a contract for professional architectural or engineering services. 1961 Op. Att'y Gen., No. 17.

Contracts between the state or any of its political subdivisions for professional architectural services or preliminary engineering services for work preliminary to the actual construction of public works projects do not come within the scope of this section, AS 36.05.080—36.05.110, and former AS 36.05.120. 1961 Op. Att'y Gen., No. 17.

Sec. 36.05.080. Failure to pay agreed wages. Every contract within the scope of § 70 of this chapter shall contain a provision that if it is found that a laborer, mechanic, or field surveyor employed by the contractor or subcontractor has been or is being paid a rate of wages less than the rate of wages required by the contract to be paid, the state or its political subdivision may, by written notice to the contractor, terminate his right to proceed with the work or the part of the work for which there is a failure to pay the required wages and to prosecute the work to completion by contract or otherwise, and the contractor and his sureties are liable to the state or its political subdivision for excess costs for completing the work. (§ 2 ch 52 SLA 1959)

REPEALED & REENACTED

Sec. 36.05.090. Payment of wages from withheld payments and listing contractors who violate contracts. (a) The state disbursing officer in the case of a state contract and the local fiscal officer in the case of a political subdivision contract shall pay directly to laborers, mechanics or field surveyors from accrued payments withheld under the terms of the contract the wages due laborers, mechanics or field surveyors under § 70 of this chapter.

(b) The state disbursing officer or the local fiscal officer shall distribute to all departments of the state government and to all political subdivisions of the state a list giving the names of persons who have disregarded their obligations to employees. No person appearing on this list and no firm, corporation, partnership or association in which the person has an interest may work as a contractor or subcontractor on a public construction contract for the state or a political subdivision of the state until three years after the date of publication of the list. If the accrued payments withheld under the contract are insufficient to reimburse all the laborers, mechanics, or field surveyors with respect to whom there has been a failure to pay the wages required under § 70 of this chapter, the laborers, mechanics or field surveyors have the right of action or intervention or both against the contractor and his sureties conferred by law upon persons furnishing labor or materials, and in

construction, repair, preliminary surveys, engineering studies, consulting, maintenance work or any other retention of services necessary to complete any given project, 95 per cent residents shall be employed where they are available and qualified. If 10 or fewer persons are employed under the contract, then 90 per cent residents shall be employed where they are available and qualified. In all cases of public works projects, preference shall be given to residents. (§ 1a ch 177 SLA 1960; am § 11 ch 142 SLA 1972; am § 1 ch 208 SLA 1972)

Effect of amendments. — The first 1972 amendment substituted "or a political subdivision of the state" for "boroughs, cities and school districts" in the first sentence.

The second 1972 amendment, in the first sentence, substituted "consulting" for "or" and inserted "or any other retention of services necessary to complete any given project."

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, § 123.

Sec. 36.10.020. Apprentices. Apprentices must be properly registered apprentices in their particular craft. (§ 1c ch 177 SLA 1960)

Sec. 36.10.030. Reduction of work force. When a work force is reduced, resident workers, except supervisory personnel, shall be terminated last. (§ 1d ch 177 SLA 1960)

Sec. 36.10.040. Application to contracts involving federal funds. In a contract involving expenditure of federal aid funds, this chapter may not be enforced in a manner that conflicts with federal statutes giving preference to veterans or prohibiting other preferences or discriminations among United States citizens. (§ 2 ch 177 SLA 1960)

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, § 4.

Sec. 36.10.050. Employment of aliens.

Repealed by § 17 ch 142 SLA 1972.

Editor's note.—The repealed section derived from § 3, ch. 177, SLA 1960.

Am. Jur. reference.—43 Am. Jur., Public Works and Contracts, §§ 17, 51, 52, 123.

Sec. 36.10.060. Employment of prisoners. No prisoner currently serving sentence in a penal or correctional institution may be employed on a public works project subject to the provisions of this chapter. (§ 4 ch 177 SLA 1960)

Sec. 36.10.070. Unavailability of resident workers. (a) When resident labor is unavailable, the contractor shall inform the commissioner of labor of the number of additional workers needed. The commissioner of labor shall investigate the facts and designate the

in outdoor tasks related to the operation of finding and delineating contour, dimensions, position, topography, as of any part of the earth's surface, by preparation of measured plan or description of any area or other portion of country or of road or line through any area or other portion of country;

(3) "public construction" or "public works" means the on-site erection, rehabilitation, alteration, extension or repair, including painting or redecorating buildings, highways or other improvements to real property under contract for the state or a political subdivision of the state;

(4) "qualified" means one who, except for apprentices, is a journeyman mechanic in his particular trade;

(5) "resident" means a person who maintains his domicile in the state: domicile is the true and permanent home of a person from which he has no present intention of removing and to which he intends to return whenever he is away;

(6) "state or a political subdivision of the state" means any state department, state agency, state university, borough, city, village, school district or other state subdivision;

(7) "wages" includes fringe benefits. (§ 16 ch 142 SLA 1972)

Alaska Statutes

Title 36. Public Contracts.

Chapter
25. Contractors' Bonds (§§ 36.25.010 — 36.25.025)

Chapter 05. Wages and Hours of Labor.

Section
10. Wage rates on public construction
70. Wage rates for laborers and mechanics on public contracts

NOTES TO DECISIONS

AS 36.05.010 — 36.05.110 was modelled after the federal Davis-Bacon Act. 40 U.S.C. § 276a et seq. Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

Sec. 36.05.010. Wage rates on public construction. A contractor or subcontractor who performs work on public construction in the state, as defined by AS 36.95.010(3), shall pay not less than the current prevailing rate of wages for work of a similar nature in the region in which the work is done. The current prevailing rate of wages for each pay period is that contained in the latest determination of prevailing rate of wages issued by the Department of Labor before the end of the pay period. (§ 14-2-1 ACLA 1949; am § 1 ch 142 SLA 1972; am § 1 ch 89 SLA 1976)

Cross references. — As to city's duty to publish applicable minimum wage schedules as part of its bid specifications, see note to AS 36.05.070.

Effect of amendments. — The 1976 amendment inserted "current" in the first sentence and added the present second sentence.

Sec. 36.05.030. Authority.

NOTES TO DECISIONS

Applied in Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

Sec. 36.05.035. Notification of contract awards.

NOTES TO DECISIONS

Since 1972 state has burden of verifying public construction contract bonds. — For cases arising after 1972, there is no doubt about who has the duty to check the validity of public construction contract bonds, since in 1972 this section was enacted, placing the burden of verifying such bonds on the state or its political subdivision. Arctic Contractors v. State, Sup. Ct. Op. No. 1420 (File Nos. 2595, 2657), 564 P.2d 30 (1977).

For case involving a dispute arising out of a 1962 construction project holding that the state had the burden of verifying payment and performance bonds, see Arctic Contractors v. State, Sup. Ct. Op. No. 1420 (File Nos. 2595, 2657), 564 P.2d 30 (1977).

Sec. 36.05.070. Wage rates for laborers and mechanics on public contracts.

(a) The advertised specifications for a public construction contract exceeding $2,000 to which the state or a political subdivision of the state is a party which requires or involves the employment of mechanics, laborers, or field surveyors shall contain a provision stating the minimum wages to be paid various classes of laborers, mechanics, or field surveyors and that the rate of wages shall be adjusted to the wage rate for each pay period applicable under AS 36.05.010.

(am § 2 ch 89 SLA 1976)

Effect of amendments. — The 1976 amendment added the language beginning "and that the rate of wages shall be adjusted" to the end of subsection (a).

As the rest of the section was not affected by the amendment, it is not set out.

NOTES TO DECISIONS

Similarity to Davis-Bacon Act.

The wording of this section is based upon the federal Davis-Bacon Act, 40 U.S.C. § 276a(a). Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

Construction of section involves balancing of hardships. — At least part of the intent of this section is to inform bidders of the minimum wage rates. On the other hand, the proper construction of this section, as it relates to the duties of the government entity, involves a balancing of hardships. There does not seem to be any special expertise needed or difficulty involved in requiring the contractor to determine the applicable minimum wage schedules. Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

The city has a statutory duty to publish as part of its bid specifications the applicable minimum wage schedules. Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

The language of subsection (a) that "the advertised specifications . . . shall contain a provision" stating the minimum wages to be paid is mandatory, not directory. Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

When such duty is met. — A city as the contracting government entity meets the requirement of subsection (a) by appending to its invitation to bid the most recent schedule of prevailing wages as published by the Department of Labor. Fowler v. City of Anchorage, Sup. Ct. Op. No. 1699 (File No. 3586), 583 P.2d 817 (1978).

Where neither the city or the contractor had knowledge of a change in the wage

(1) the contractor is, and for two years immediately preceding the award of the contract has been, a licensed contractor having his or its principal office in the state;

(2) the contractor certifies that he has not defaulted on a contract awarded to him during the period of three years preceding the award of a contract for which a bid is submitted;

(3) the contractor submits a financial statement, prepared within a period of nine months preceding the submission of a bid for the contract and certified by a public accountant or a certified public accountant licensed under AS 08.04.010 — 08.04.690, demonstrating that the contractor has a net worth of not less than 20 per cent of the amount of the contract for which a bid is submitted; and

(4) the total amount of all contracts which the contractor anticipates performing during the term of performance of the contract for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under (3) of this subsection by more than seven times. (§ 1 ch 81 SLA 1978)

Cross references. — As to limitation of home rule power regarding municipal exemption on contractor bond requirements, see AS 29.13.100(38). As to requirement that a municipality use ordinances to exempt contractors from compliance with general requirements relating to certain bonds, see AS 29.48.130(a)(12).

Chapter 95. General Provisions.

Section
10. Definitions

Sec. 36.95.010. Definitions. In AS 36.05.010 — 36.25.025 unless the context requires otherwise

(1) "contractor" means the contractor including subcontractors performing work necessary to facilitate public construction;

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, of highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

(am § 3 ch 89 SLA 1976; am § 16 ch 147 SLA 1978)

Revisor's notes. — AS 36.95.010(3) has been corrected by the reinsertion of the word "of" before and after the word "buildings" to return to the original wording of sec. 16, ch. 142, SLA 1972.

Effect of amendments. — The 1976 amendment substituted "subcontractors performing work necessary to facilitate public construction" for "the subcontractor" in paragraph (1) and inserted "field surveying" in paragraph (3).

The 1978 amendment, in paragraph (3) deleted "or" following "for the state" and added "or a regional school board with respect to an educational facility under AS 14.08.161" to the end.

AS 23.10.050 — 23.10.150 are directed toward a situation distinct from that of the Equal Pay for Women Act. Brown v. Wood, Sup. Ct. Op. No. 1551 (File Nos. 2564, 2565), 575 P.2d 760 (1978), modified on rehearing on other grounds, 592 P.2d 1250 (1979).

Sec. 23.10.055. Exemptions. Sections 23.10.050 — 23.10.150 do not apply to

(5) an individual employed by the United States or by the state or political subdivision of the state including prisoners not on furlough detained or confined in prison facilities;
(am § 2 ch 124 SLA 1978)

Editor's notes. — As the rest of the section was not affected by the amendment, it is not set out.

Cross references. — As to gratuity for institutional work by prisoners, see § 33.30.225.

Effect of amendments. — The 1978 amendment added "including prisoners not on furlough detained or confined in prison facilities" to the end of paragraph (5).

Editor's notes. — Section 3, ch. 124, SLA 1978, provides: "No position in the classified service existing on the effective date of this Act may be abolished in favor of employing a prisoner to carry out the responsibilities of the position."

NOTES TO DECISIONS

Employees covered by and exempt from Fair Labor Standards Act. — AS 23.10.050 — 23.10.150 apply to both employees covered by the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and those who are, because of insufficient connections to interstate commerce, exempt from the Fair Labor Standards Act. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Prisoners excluded from operation of chapter. — See McGinnis v. Stevens, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

Applied in Alaska Int'l Indus., Inc. v. Musarra, Sup. Ct. Op. No. 1966 (File Nos. 3652, 3676), 602 P.2d 1240 (1979).

Sec. 23.10.060. Payment for overtime. No employer who employs employees engaged in commerce, or other business, or in the production of goods or materials in Alaska may employ an employee not acting in a supervisory capacity, either male or female, for a workweek longer than 40 hours or for more than eight hours a day, except that if the employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid, and this provision is considered included in all contracts of employment. This section does not apply with respect to

(2) Repealed by § 33 ch 127 SLA 1974.

(17) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(18) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the Department of Labor; and

(B) the Department of Labor has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.
(am § 33 ch 127 SLA 1974; am § 1 ch 31 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraphs (17) and (18).

Legislative history reports. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

As the rest of the section was not affected by the amendments, it is not set out.

NOTES TO DECISIONS

Article not void. — The Alaska Wage and Hour Act merely requires higher minimum and overtime pay than the Fair Labor Standards Act, 29 U.S.C. §§ 201-219. Although compliance with both is more expensive than compliance with the federal act, it is not in any sense, impossible so as to make the Alaska law void. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Or preempted. — Since, under the Alaska Wage and Hour Act, the number of hours required for the overtime rate is less than that under the Fair Labor Standards Act, the Alaska act provides for a lower maximum workweek within the meaning of 29 U.S.C. § 218(a) and consequently, comes within the express saving clause so as not to be preempted by the federal law. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Definition of "supervisory" in the Alaska Administrative Code, that the term as used in this section means a person who directs the activities of other employees and who does not perform duties which are regularly performed by the employees supervised, except for brief periods of time not to exceed more than eight hours in the supervisor's work week, is reasonable and not arbitrary. Alaska Int'l Indus., Inc. v. Musarra, Sup. Ct. Op. No. 1966 (File Nos. 3652, 3676), 602 P.2d 1240 (1979).

Sec. 23.10.065. Minimum wages. An employer shall pay to each of his employees wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or $2.60 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. No employer may apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage required by this section. Tip credit as defined by the Fair Labor Standards Act of 1938 as amended does not apply to the minimum wage established by this section. (§ 4 ch 171 SLA 1959; am § 2 ch 2 SLA 1962; am § 1 ch 41 SLA 1974)

Effect of amendments. — The 1974 amendment added the language beginning "or $2.60 an hour" to the end of the first sentence and added the second and third sentences.

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. Senate Bill No.
Title "An Act relating to payment of prevailing wages . . . "
Requested by Rules Committee Date 1/6/82

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Labor Standards & Safety
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

Judy Knight

IV. DATE January 6, 1982 PREPARED BY Judy Knight, Special Assistant
AGENCY Labor
PHONE 465-2700

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

33-001 (Rev. 12/81)

SB
729

Alaska State Legislature

Senate

Committee on Finance

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

M E M O R A N D U M

TO: Senator Ed Dankworth

FROM: Pete Jeans

RE: Home Improvement & Energy Conservation
Loan Program (SB 729)

DATE: February 9, 1982

As per your request, attached is supporting information for this program.

PJ;lal

SUMMARY

It becomes obvious after looking at the detailed analysis of the energy loan programs, that the majority of the loans that have been made are for woodstoves, fireplaces, heat pumps etc. The energy loan programs are basically a home improvement program under the title of energy conservation and alternative technology. Most of these loans have been made in areas where the cost of wood for fuel is higher than other available sources of energy. It makes sense to change the program to a home improvement loan program and let the borrower make the improvements he wishes whether it be a new fireplace, woodstove, remodeling or an addition to his home. By offering a reduced interest rate for energy conservation projects, the borrower has an incentive to have an audit performed and do those things which will save on energy cost. The reduced interest rate more than offsets the cost of having an audit performed.

The savings by consolidating these programs is approximately $5 million.

The Alternative Technology and Energy Revolving Loan Fund; the Residential Energy Conservation Fund; the Child Care Facility Revolving Loan Fund; the Residential Care Facility Revolving Loan Fund; and energy conservation grants will all be replaced by a Home Improvement and Energy Conservation Revolving Loan Fund. The energy audits that are now provided mostly at state expense will be shifted to the private sector. The Non-Conforming Housing Loan program will be moved from the Department of Community and Regional Affairs to the Department of Commerce and Economic Development. The World War II Veterans Fund will be opened to qualified veterans for Home Improvement and Energy Conservation loans. The consolidation of these programs into one agency will eliminate duplication at substantial savings to the state.

A consolidated office will be located in Anchorage, Fairbanks, Juneau, Nome, Bethel, Kotzebue and Dillingham instead of the two or three offices we now have at some of these locations. A toll-free telephone number will be available to residents statewide. One division will administer (1) the Non-Conforming Housing Loans (2) Commercial Fishing Loans (3) Historical District Loans (4) Fisherman's Mortgage & Note Program (5) Bulk Fuel Loans (6) Fisheries Enhancement Loans (7) Mining Loans and (8) Home Improvement & Energy Conservation Loans.

SUMMARY OF RESTRUCTURED PROGRAM

	FY 83 Gov. Request	Proposal
DIVISION OF BUSINESS LOANS		
Operating Budget	2541.2	2541.2
Number of Employees	52	52
DIVISION OF ENERGY, OPERATING		
(1) Energy Administration	858.9	-0-
(2) Energy Grants & Assistance	5901.8	-0-
(3) Field Offices	780.9	-0-
Number of Employees	24	-0-
DIVISION OF HOUSING ASSISTANCE		
Operating Budget	1129.8	1029.8
Number of Employees	16	13
TOTAL OPERATING BUDGET	11212.6	3571.0
TOTAL EMPLOYEES	92	65

CAPITAL BUDGET

DIVISION OF ENERGY		
Grants & Assistance	14078.5	-0-
DIVISION OF HOUSING ASSISTANCE		
Non-Conforming Housing Loans	40500.0	40500.0
DIVISION OF BUSINESS LOANS		
Commercial Fishing Loans	9400.0	9400.0
Residential Care Facilities	80.0	-0-
Child Care Facilities	200.0	-0-
Historical Districts	500.0	500.0
Fishermans Mortgage & Notes	1800.0	1800.0
Bulk Fuel Loans	1000.0	1000.0
Fisheries Enhancement	1500.0	1500.0
Mining	1500.0	1500.0
Residential Energy	4500.0	-0-
Alternative Technology	4000.0	-0-
Home Improvement & Energy Construction	-0-	2500.0
TOTAL CAPITAL	106058.5	108200.0

SUMMARY

OPERATING BUDGET	11212.6	3571.0
CAPITAL BUDGET	106058.5	108200.0
TOTAL	117271.1	111771.0
SAVINGS		5500.1
TOTAL EMPLOYEES	92	65

In addition to the funds appropriated, approximately 3 million will be available to qualified Veterans from the existing World War II fund.

For FY 81 and FY 82, the Legislature appropriated a total of $39,393,300 to the Division of Energy and Power Development. 91% or $35,966,000 of these funds were designated for energy audits, grants, assistance and weatherization. In addition to these amounts, $12,300,000 was appropraited to the Division of Business Loans for energy conservation; and alternative energy and technology loans over the same two year period. This made a total of $48,266,000 available for energy conservation and alternative technology. For FY 81 the following was accomplished with an authorization of $14,662,000.

(1) Weatherization - $1,570,300 was spent

(2) Grants & Assistance - $4,357,200

(a) 7,795 energy audits were performed.
(b) 2,092 grants were made for a total of $616,796. Average grant $294.84

(3) Residential Energy Conservation Loans
179 loans for $683,940 (Average grant $3,821)

(4) Alternative Energy and Technology Loans
459 loans for $2,312,175 (Average $5,037)

(a) Woodstoves	172	37%
(b) Fireplaces	52	11%
(c) Heatpumps	13	4%
(d) Convert to Electric	53	12%
(e) Solar	31	7%
(f) Wind	13	3%
(g) Coal	35	8%
(h) Other	85	19%
TOTAL	459	

(5) Lapse to the General Fund, $6,535,000 by the Division of Energy and Power Development. These funds were not available to the Division of Business Loans for loan purposes. All loan funds available to the Division of Business Loans were used for that purpose.

For FY 82 the following has been acccmplished in the first 5 months with an appropriation of $33,604,000.

(1) GRANTS & ASSISTANCE

(a) 21,374 energy audits performed - $2,505,604
(b) 457 auditors trained
(c) 2,634 grants approved - $775,245

(2) RESIDENTIAL ENERGY CONSERVATION LOANS

(a) 238 loans approved - $903,913

(3) ALTERNATIVE ENERGY & TECHNOLOGY LOANS
490 loans for $1,987,526

(a) Woodstoves	339	69%
(b) Fireplaces	6	1%
(c) Heat Pump	12	2%
(d) Conversion to Electric	1	-0-
(e) Solar	52	11%
(f) Wind	7	1%
(g) Coal	53	11%
(h) Other	19	4%

Attached is a summary by House and Senate Districts that shows what has been accomplished through the residential energy conservation; and alternative energy and technology programs.

Residential & Heavy Equip. 1 — Refrigeration & Air Cond. Technology

	Initials	Date
Prepared By		
Approved By		

Column Width	1	2 Name	3	4 Trans. Lines	5 Wire/Elec.	6 Fairlines	7 Heat Pump	8 Conversion Technique	9 Solar	10 Wind/Coal	11 Other	12 Total
1		Zieglar										
2		Gilmore										
3		Gilmore										
4		Kay										
5		Kiellola										
6		Kiellola										
7		Fischer-Simson										
8		Bradley-Kelly										
9		Bailey										
10		Stergakowski										
11		Collerin										
12		Lauderdown										
13		Gilmore										
14		Mahanby										
15		Mahanby										
16		Hohman										
17		Hohman										
18		Sackett										
19		Sackett										
20		Lowell-Johnson	Hse.									
21		Ferguson										
22		Ferguson										
23												
24												
25		Totals										
26												
27												
28												
29												
30												

1 YEAR (July - November)

Residential Energy Cases — ALTERNATIVE ENERGY + TECHNOLOGY

	Initials	Date
Prepared By		
Approved By		

COLUMN WRITE	Heat Using Energy Conserving Assumptions	Alternative Technologies		1 Number of Houses	2 Meals	3 Guests	4 Total Loads	5 Woodstove	6 Fireplace	7 Heat Pump	8 Conversion to Electric	9 Solar	10 Wind/Coal	11 Other	12 TOTAL	
1	5%	1%	Zepke	13	5,148	86	2,274 (2)	1,384 (4)							3,134 (4)	1
2	4%	1%	Elmson	6	2,241	33	1,105 (10)	1,204 (4)		200 (1)					1,309 (5)	2
3	1%	1%	Elmson	5	1,980	44	1,165 (2)	1,245 (3)		255 (1)	1,420 (1)				1,536 (5)	3
4	11%	9%	King	37	13,230	205	5,427 (21)	5,136 (30)		1,230 (10)		1,425 (3)		2,105 (1)	13,234 (47)	4
5	9%	9%	Kerkhoh	12	4,284	64	1,736 (1)	2,310 (2)					2,205 (1)	1,260 (2)	5,832 (15)	5
6	13%	11%	Kerkhoh	46	16,445	214	4,325 (8)	4,325 (28)				3,936 (5)		1,500 (2)	17,345 (45)	6
7			Fiske-Stinson													7
8			Bailey-Kelly													8
9			Lacey													9
10	13%	9%	Stacyakowski	13	4,641	211	1,741 (13)	1,716 (13)				3,276 (17)	1,260 (5)		7,252 (35)	10
11			Corbett													11
12			Duckworth													12
13	3%	1%	Colonial	13	5,148	28	2,324 (7)	2,324 (5)				3,276 (5)		1,260 (1)	6,860 (18)	13
14	3%	0	Wolensky	10	3,444	18	1,344 (1)								0	14
15	0	0	Wolensky	2	770	2	0								0	15
16	0	0	Hohmad	4	1,540	31	0						1,260 (1)		1,260 (1)	16
17	1%	0	Hohmad	6	2,310	24	1,260 (2)					1,260 (1)			1,260 (1)	17
18	0	0	Sorokin	0	0	20	0								0	18
19	1%	0	Sorokin	8	3,080	211	1,260 (2)	1,260 (1)					1,260 (5)		3,780 (8)	19
20	33%	1%	Limestone Lakes	42	16,170	251	5,292 (40)	5,292 (24)	2,268 (6)			6,048 (11)	1,260 (6)	2,268 (1)	20,160 (88)	20
21	0	0	Peterson	13	5,005	150	0								0	21
22	3%	0	Peterson	11	4,235	96	1,260 (5)								1,260 (5)	22
23																23
24			(out of state)													24
25	100%	74%	24 Case Homes (Total)	384	147,840 (32)	2,394	1,260,252 (331)	1,260,252 (331)	252,252 (66)	1,260,252 (12)	1,260,252 (1)	945,189 (52)	1,260,252 (10)	504,101 (19)	2,268,252 (98)	25
26			1 Yr Total		147,840	2,394	1,260,252	1,260,252	252,252	1,260,252	1,260,252	945,189	1,260,252	504,101	2,268,252	26
27																27
28			Totals, Nov. 30, 1981			1,394	1,260,252	1,260,252	252,252	1,260,252	1,260,252	945,189	1,260,252	504,101	2,268,252	28
29			% by numbers				37%	37%	7%	37%	37%	28%	37%	15%	100%	29
30			% by stations				34%	56%		42%	42%	15%	19%	8%	100%	30
			Weight Load													

Chapter 10. Veterans.

Article 2. Miscellaneous Provisions.

Section
70. Record of veterans of the armed forces of the United States

Sec. 26.10.070. Record of veterans of the armed forces of the United States. (a) A veteran may record without fee his armed forces report of separation at a recorder's office of the Department of Natural Resources. Each recorder's office shall periodically submit to the bureau of vital statistics copies of the reports of separation which it records.

(b) The bureau of vital statistics shall keep a record from copies of reports received under (a) of this section and from information voluntarily submitted to the bureau by veterans of all persons who are bona fide residents of Alaska and who actively served in the Alaska Territorial Guard, Alaska National Guard, organized reserve units, United States Army, Navy, Air Force, Marine Corps or Coast Guard since April 6, 1917. The record shall contain the name, age and place of residence at the time of entering service, place and date of commission, enlistment or induction, branch of service, record of service and the date, place and nature of discharge. (§ 44-2-2 ACLA 1949; am § 1 ch 75 SLA 1955; am § 2 ch 35 SLA 1981)

Cross references. — As to copies of public records for veterans, see AS 09.25.123.

Effect of amendments. — The 1981 amendment designated the existing section as subsection (b) and added subsection (a). The amendment, in subsection (b), substituted "keep" for "compile" preceding "a record," added "from copies of reports received under (a) of this section and from information voluntarily submitted to the bureau by veterans" preceding "of all persons," substituted "are" for "were" preceding "bona fide residents," deleted "the territory of" preceding "Alaska," added "Alaska Territorial Guard, Alaska National Guard, organized reserve units" preceding "United States Army," added "Air Force" following "Navy," substituted "Coast Guard since" for "between" preceding "April," deleted "and November 11, 1918" following "April 6, 1917" and deleted the former second sentence which read "The record shall be kept on file at the office of the bureau and shall be available and open to the inspection of anyone desiring to inspect it."

Chapter 15. Veterans Loans.

Section
40. Veterans' loans
70. Sale or transfer of mortgages and notes
100—120. [Repealed]
130. Eligibility for loans
150. [Repealed]
160. Extension of AS 26.15.010 — 26.15.160 to veterans of Korea and Viet Nam
170. [Repealed]

Sec. 26.15.040. Veterans' loans. (a) The commissioner of commerce and economic development may, under regulations and policies adopted by him, make the following loans:

(1) Personal loans may be made for educational, domestic, remote area family housing and other personal purposes, not exceeding $10,000. The loans shall be secured by acceptable collateral when available but if not available the commissioner may make loans on the basis of good character. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(2) Repealed by § 77 ch 106 SLA 1980.

(3) Business loans not exceeding $125,000 may be made to acquire, finance or refinance or equip businesses, including mining and fishing but not including farming, if the loan applicant has had three or more years of general business experience. The loans shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(4) Multiple dwelling loans not exceeding $110,000 may be made to purchase, remodel, repair, build, furnish, refinance or equip multiple dwellings. The loans shall be secured by acceptable collateral and may not exceed 75 per cent of the appraised value of the collateral offered as security. The rate of interest may not exceed nine and one-half per cent a year on the unpaid balance.

(b) The commissioner of commerce and economic development may enter into agreements with private banks, other lending institutions and individuals for the purpose of guaranteeing loans made to qualified applicants. The guarantees may not exceed 90 per cent of the amount loaned and the loans shall be secured in the same manner provided for direct loans under this section. A loan made under this subsection and guaranteed by the commissioner of commerce and economic development and the state shall bear an interest rate not exceeding nine and one-half per cent a year on the unpaid balance.

(c) No loans authorized by (a)(2), (3) and (4) of this section may be made unless the commissioner of commerce and economic development is satisfied that money at a comparable rate of interest is not available to the applicant from private lending institutions on a guaranteed basis as set out in (b) of this section. An applicant is eligible for more than one type of loan, but the total may not exceed $125,000 at any one time.

(d) Money loaned shall be delivered to the borrower in the form of a warrant drawn on the treasury, vouchered in the manner prescribed for state disbursing officers, and charged against the Alaska World War II veterans' revolving fund. Each voucher shall be approved by the commissioner of commerce or any bonded deputy authorized to act as a certifying officer. Upon repayment of loans by installments, or otherwise, in accordance with the prescribed terms, or upon liquidation by foreclosure or other process, or upon receipt of interest or other revenue, the money so received shall be turned over to the commissioner of revenue for deposit in the Alaska World War II veterans' revolving fund.

the Department of Fish and Game, and the director of the Alaska division of tourism in the Department of Commerce and Economic Development, or their designees, serve as ex officio members of the commission, without a vote. The director of the Alaska division of tourism serves as the board's executive director. (§ 4 ch 207 SLA 1975)

Sec. 44.33.200. Compensation, per diem, or expenses. Members of the Tourism Advisory Board are not entitled to receive compensation for their services, but they shall receive the same travel pay and per diem as provided by law for board members for attendance at a maximum of three meetings each year. (§ 4 ch 207 SLA 1975)

Sec. 44.33.210. Qualifications of public members. The public members of the Tourism Advisory Board shall be persons with experience or interest in the Alaska tourist industry. (§ 4 ch 207 SLA 1975)

Sec. 44.33.220. Duties. The board shall advise the governor and make recommendations regarding the promotion and development of tourism into and inside the state. The board shall submit an annual report to the governor and legislature summarizing its activities and expenses. (§ 4 ch 207 SLA 1975)

Sec. 44.33.230. Organization and cooperation with regional promotion groups. The Tourism Advisory Board may plan for the organization of local tourism promotion groups in the several geographic regions of the state, acquaint these groups with the program of the Alaska division of tourism, receive recommendations from the groups as to the state programming, and encourage the expenditure of private and regional funds for the promotion of tourism to supplement the programs of the state. (§ 4 ch 207 SLA 1975)

Article 6. Child Care Facility Revolving Loan Fund.

Section

240. Child care facility revolving loan fund
245. Powers and duties of the department in administering the fund
250. Conditions of loans
255. Loan terms
260. Eligibility for loans
265. [Repealed]
270. Sale or transfer of mortgages and notes
275. Definitions

Sec. 44.33.240. Child care facility revolving loan fund. There is in the Department of Commerce and Economic Development the child care facility revolving loan fund to carry out the purposes of AS 44.33.240 — 44.33.275. The fund may be used for no other purpose. (§ 9 ch 253 SLA 1976)

Sec. 44.33.245. Powers and duties of the department in administering the fund. (a) The department may

Article 6. Child Care Facility Revolving Loan Fund.

Section
245. Powers and duties of the department in administering the fund
250. [Repealed]
255. Loan terms
260. Eligibility for loans

Sec. 44.33.245. Powers and duties of the department in administering the fund. (a) The department may

(1) make loans for the construction, renovation, and equipping of child care facilities, including private nonprofit child care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.240 — 44.33.275.

(b) The department shall

(1) develop eligibility standards for loans to child care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 9 ch 253 SLA 1976; am § 1 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, added "including private nonprofit child care facilities" following "child care facilities" in paragraph (1) of subsection (a).

Sec. 44.33.250. Conditions of loans.

Repealed by § 9 ch 112 SLA 1981, effective July 27, 1981.

Editor's notes. — The repealed section derived from § 9, ch. 253, SLA 1976; § 2, ch. 153, SLA 1978.

Sec. 44.33.255. Loan terms. (a) A loan to a child care facility under AS 44.33.240 — 44.33.275 may not exceed $50,000.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

(d) All principal and interest payments on loans under AS 44.33.240 — 44.33.275 shall be paid into the child care facility revolving loan fund.

(e) If a child care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 9 ch 253 SLA 1976; am § 3 ch 153 SLA 1978; am § 18 ch 72 SLA 1979; am § 2 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, substituted "$50,000" for "$30,000, and no more than one loan may be made to a single child care facility under AS 44.33.240 — 44.33.275" in subsection (a).

Sec. 44.33.260. Eligibility for loans. A child care facility is eligible for a loan under AS 44.33.240 — 44.33.275 if

(3) the general policy to require all construction to be under bid contract as contained in AS 35.15.010 may be waived if the contract is to be performed by the state, another governmental entity, or a nonprofit entity. (§ 1 ch 277 SLA 1976)

Sec. 44.33.305. Regulations. The department, after consultation with the Department of Labor, may adopt regulations to implement AS 44.33.285 — 44.33.310. (§ 1 ch 277 SLA 1976)

Sec. 44.33.310. Definitions. In AS 44.33.285 — 44.33.310,

(1) "base period" means any 10 years after 1950, not necessarily continuous, and if the economic disaster is caused by a fisheries failure the period shall consist of years during which a fishery produced at economically representative levels as determined by the Department of Fish and Game;

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

(3) "economic disaster" means that the annual income to workers in the designated area dropped below the average annual income for the base period for workers in the designated area and the drop in income is of such magnitude that the average family income of all residents of the designated area as determined by the department is below the Federal Social Security Administration Poverty Guideline, adjusted by the department to reflect subsistence economic patterns and appropriate cost-of-living differentials; the availability of alternate employment shall be considered in determining whether an economic disaster has occurred under this paragraph. (§ 1 ch 277 SLA 1976)

Article 8. Residential Care Facility Revolving Loan Fund.

Section	Section
320. Residential care facility revolving loan fund	350. Loan terms
330. Powers and duties of the department in administering the fund	360. Eligibility for loans
340. Purpose of loans	370. Sale or transfer of mortgages and notes
	380. Definitions

Sec. 44.33.320. Residential care facility revolving loan fund. There is established in the Department of Commerce and Economic Development a residential care facility revolving loan fund to carry out the purposes of AS 44.33.320 — 44.33.380. The fund may be used for no other purpose. (§ 6 ch 153 SLA 1978)

Sec. 44.33.330. Powers and duties of the department in administering the fund. (a) The department may

(1) make loans for the construction, renovation, and equipping of residential care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.320 — 44.33.380.

(b) The department shall

(1) develop eligibility standards for loans to residential care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 6 ch 153 SLA 1978)

Sec. 44.33.340. Purpose of loans. (a) Loans under AS 44.33.320 — 44.33.380 shall be made to enable residential care facilities in the state to comply with the established licensing standards for residential care facilities.

(b) A loan may not be made unless the commissioner is satisfied that the applicant cannot obtain funding from private lending institutions for the construction, renovation or equipping of residential care facilities. (§ 6 ch 153 SLA 1978)

Sec. 44.33.350. Loan terms. (a) The principal amount of a loan to a residential care facility under AS 44.33.320 — 44.33.380 may not exceed $20,000.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

(d) All principal and interest payments on loans under AS 44.33.320 — 44.33.380 shall be paid into the residential care facility revolving loan fund.

(e) If a residential care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 6 ch 153 SLA 1978; am § 20 ch 72 SLA 1979)

Effect of amendment. — The 1979 amendment substituted "seven per cent" for "six per cent" in subsection (b).

Sec. 44.33.360. Eligibility for loans. A residential care facility is eligible for a loan under AS 44.33.320 — 44.33.380 if

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) the applicant demonstrates that the proposed loan will enable the residential care facility to obtain a license from the Department of Health and Social Service

(3) the applicant has not received over $10,000 in loans from the fund in the five-year period preceding the applic and

(4) the applicant meets eligibility standards established by the department under AS 44.33.330(b)(1). (§ 6 ch 153 SLA 1978)

Sec. 44.33.370. Sale or transfer of mortgages and notes. (a) The commissioner may sell or transfer at par value or at a premium to a bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

(b) Repealed by § 14 ch 122 SLA 1980. (§ 6 ch 153 SLA 1978; am § 14 ch 122 SLA 1980)

Effect of amendment. — The 1980 amendment repealed subsection (b).

Sec. 44.33.330. Definitions. In AS 44.33.320 — 44.33.380

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

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

(3) "residential care facility" means a foster home, group home, or institution which provides 24-hour nonmedical care for dependent adults not related by blood, marriage, or legal adoption to the owner, operator or manager of the facility. (§ 6 ch 153 SLA 1978)

Article 9. Advisory Council on Cultural Facilities.

Section		Section	
400.	Advisory council on cultural facilities established	405.	Travel expenses and per diem
		410.	Duties

Sec. 44.33.400. Advisory council on cultural facilities established. (a) There is in the Department of Commerce and Economic Development the Advisory Council on Cultural Facilities.

(b) The council consists of five members, appointed by the governor from a list of candidates provided to him for that purpose by the State Council on the Arts. The members of the council are appointed for overlapping three-year terms, with two of the members first appointed serving three years, two of the members serving two years, and one member serving a term of one year.

(c) The council shall select a chairman and vice-chairman from its membership. (§ 3 ch 62 SLA 1979)

Sec. 44.33.405. Travel expenses and per diem. Members of the Advisory Council on Cultural Facilities are not entitled to receive compensation for their services, but they shall receive per diem and travel expenses allowed by law for members of boards and commissions for attendance at a maximum of four meetings per year. (§ 3 ch 62 SLA 1979)

Sec. 44.33.410. Duties. The Advisory Council on Cultural Facilities shall

(1) by regulation, establish criteria for ranking applications for grants to municipalities for the purpose of construction or development of cultural facilities under AS 43.18.500; the regulations shall provide for the assignment of priority among applications transmitted by the commissioner of commerce and economic development; the criteria for

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) Repealed by § 9 ch 112 SLA 1981.

(3) Repealed by § 7 ch 153 SLA 1978.

(4) Repealed by § 7 ch 153 SLA 1978.

(5) the applicant meets additional eligibility standards established by the department under AS 44.33.245(b)(1). (§ 9 ch 253 SLA 1976; am §§ 4, 7 ch 153 SLA 1978; am § 9 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, repealed paragraph (2) which read "the applicant demonstrates that the proposed loan will enable the child care facility to obtain or renew a license from the Department of Health and Social Services or a certificate from the Department of Education."

Chapter 35. Department of Military Affairs.

Section

30. Construction of memorials to Alaska veterans

Sec. 44.35.030. Construction of memorials to Alaska veterans. The Department of Military Affairs may construct memorials to Alaska veterans. A memorial constructed under this section is not subject to AS 35.15.010, 36.15.120 or AS 35.27.010 — 35.27.030. (§ 1 ch 30 SLA 1981)

Cross references. — As to the duty of the department of natural resources to maintain certain memorials to veterans, see AS 41.20.020 (12).

Effective dates. — Section 4, ch. 30, SLA 1981, makes this section effective June 20, 1981, in accordance with AS 01.10.070(c).

Editor's notes. — Section 2, ch. 30, SLA 1981 provides: "MEMORIAL TO ALASKA VETERANS. (a) A memorial to Alaska veterans shall be constructed by the Department of Military Affairs. The memorial shall be located in Denali State Park on a site adjacent to the Parks Highway.

"(b) The design of the memorial shall be chosen by a committee composed of

"(1) the adjutant general of the state, who shall serve as chair of the committee; and

"(2) one veteran selected by the adjutant general from each branch of the military service.

"(c) The memorial authorized by this section

"(1) shall contain suitable recognition of the contributions made by all men and women who have served on active duty in the military service in Alaska;

"(2) shall acknowledge the contribution of Alaskans to America's military history, including but not limited to, honoring the unique contributions made by the Eskimo Scout Battalion of the Alaska Territorial Guard.

"(d) The memorial shall maintained by the division of parks, Department of Natural Resources."

(1) make loans for the construction, renovation, and equipping of child care facilities;

(2) promulgate regulations necessary to carry out the provisions of AS 44.33.240 — 44.33.275.

(b) The department shall

(1) develop eligibility standards for loans to child care facilities;

(2) adopt guidelines for the determination of loan terms. (§ 9 ch 253 SLA 1976)

Sec. 44.33.250. Conditions of loans. (a) Loans under AS 44.33.240 — 44.33.275 shall be made to enable child care facilities in the state to comply with the appropriate licensing standards for child care facilities or to comply with the requirements for certification by the Department of Education.

(b) A loan in excess of $10,000 must be secured by acceptable collateral with an appraised value of at least 100 per cent of the loan amount. (§ 9 ch 253 SLA 1976; am § 2 ch 153 SLA 1978)

Effect of amendment. — The 1978 amendment rewrote subsection (b).

Sec. 44.33.255. Loan terms. (a) A loan to a child care facility under AS 44.33.240 — 44.33.275 may not exceed $30,000, and no more than one loan may be made to a single child care facility under AS 44.33.240 — 44.33.275.

(b) The rate of interest charged shall be seven per cent a year on the unpaid balance of the loan.

(c) The duration for repayment of a loan may not exceed 10 years.

All principal and interest payments on loans under AS 44.33.240 — 44.33.275 shall be paid into the child care facility revolving loan fund.

(e) If a child care facility ceases operation, any loan to the facility from the fund is due on the date the facility ceases operation. (§ 9 ch 253 SLA 1976; am § 3 ch 153 SLA 1978; am § 18 ch 72 SLA 1979)

Effect of amendments. — The 1978 amendment substituted the language beginning "$30,000, and no more than one loan" for "$10,000" at the end of subsection (a).

The 1979 amendment substituted "seven per cent" for "six per cent" in subsection (b).

Sec. 44.33.260. Eligibility for loans. A child care facility is eligible for a loan under AS 44.33.240 — 44.33.275 if

(1) the applicant submits to the department a plan for the use of the loan funds which is approved by the commissioner;

(2) the applicant demonstrates that the proposed loan will enable the child care facility to obtain or renew a license from the Department of Health and Social Services or a certificate from the Department of Education;

(3) Repealed by § 7 ch 153 SLA 1978.

(4) Repealed by § 7 ch 153 SLA 1978.

(5) the applicant meets additional eligibility standards established by the department under AS 44.33.245(b)(1). (§ 9 ch 253 SLA 1976; am §§ 4, 7 ch 153 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "or renew" in paragraph (2) and repealed paragraphs (3) and (4), which read "the applicant is awarded a certificate of need by the Department of Community and Regional Affairs" and "the applicant has not received over $10,000 in loans from the fund in the five-year period preceding the application; and," respectively.

Sec. 44.33.265. Certificate of need.
Repealed by § 7 ch 153 SLA 1978.

Editor's note. — The repealed section was derived from § 9, ch. 253, SLA 1976.

Sec. 44.33.270. Sale or transfer of mortgages and notes. (a) The commissioner of commerce and economic development may sell or transfer at par value or at a premium to a bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

(b) Repealed by § 14 ch 122 SLA 1980. (§ 9 ch 253 SLA 1976; am § 5 ch 153 SLA 1978; am § 19 ch 72 SLA 1979; am § 14 ch 122 SLA 1980)

Effect of amendment — The 1978 amendment substituted "$1,000,000" for "$300,000" at the end of former subsection (b).

The 1979 amendment in the second sentence of former subsection (b), substituted "may purchase" for "shall purchase" and deleted "until the current principal amount of all mortgages and notes purchased and held by the Department of Revenue equals $1,000,000" from the end.

The 1980 amendment repealed subsection (b).

Sec. 44.33.275. Definitions. In AS 44.33.240 — 44.33.275

(1) "child care facility" means an establishment the principal purpose of which is to provide care for children not related by blood, marriage, or legal adoption, including but not limited to day care centers, family day care homes, and schools for preschool age children;

(2) "department" means the Department of Commerce and Economic Development. (§ 9 ch 253 SLA 1976)

Article 7. Areas Impacted by Economic Disaster.

Section		Section	
285.	Action by governor	300.	Waiver of certain provisions
290.	Employment preference	305.	Regulations
295.	Contractors' preference	310.	Definitions

(2) "department" means the Department of Community and Regional Affairs;

(3) "child" means any person below 11 years of age;

(4) "day care" means the care, supervision, and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day;

(5) "municipality" includes a home rule, general law and unified municipality, as defined in AS 29.03.010 — 29.95.030;

(6) "child care facility" means an establishment licensed under AS 47.35.010 — 47.35.080, including but not limited to day care centers, family day care homes, and schools for preschool age children, which provides care for children not related by blood, marriage, or legal adoption to the owner, operator, or manager of the facility. (§ 2 ch 66 SLA 1975; am §§ 6 — 8 ch 253 SLA 1976; am §§ 4, 5 ch 272 SLA 1976; am § 2 ch 98 SLA 1977; am § 8 ch 112 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 27, 1981, added paragraph (6).

Article 9. Division of Housing Assistance.

Section

370. Powers of director
380. Nonconforming housing loan fund
385. Eligible locations
390. Limitations on use of nonconforming housing loan fund
395. Operating loss reserve account
400. Security for loans
410. Interest on loans
420. Title
430. Restricted title loss reserve account
460. Loan origination and servicing
470. Appraisals
490. Assistance by division personnel
510. Regional allocation

Cross references. — For provisions on the Alaska Housing Finance Corporation, see 18.56.010 — 18.56.210.

Sec. 44.47.370. Powers of director. The director may

(1) adopt regulations in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650) to implement AS 44.47.360 — 44.47.560;

(2) make and execute agreements, contracts, and other instruments necessary or conveninet in the exercise of his powers and functions under AS 44.47.360 — 44.47.560;

(3) purchase or participate in the purchase of nonconforming housing mortgage loans in accordance with AS 44.47.360 — 44.47.560;

(4) purchase or participate in the purchase of loans for building materials for nonconforming housing in accordance with AS 44.47.360 — 44.47.560;

(5) procure insurance against loss in connection with his functions under AS 44.47.360 — 44.47.560;

(6) acquire real or personal property, or an interest in real or personal property, by purchase, transfer or foreclosure, when the acquisition is necessary or appropriate to protect a loan in which the division has an interest; sell, transfer and convey that property to a buyer; and, if the sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, rent or lease the property to a tenant pending the sale, transfer or conveyance;

(7) do all acts necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in AS 44.47.360 — 44.47.560;

(8) originate and service direct loans made to qualified buyers in accordance with AS 44.47.360 — 44.47.560. (§ 73 ch 106 SLA 1980; am § 15 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added paragraph (8).

Sec. 44.47.380. Nonconforming housing loan fund. There is created in the Department of Community and Regional Affairs the nonconforming housing loan fund consisting of money appropriated to it by the legislature. The director shall administer the nonconforming housing loan fund in accordance with AS 44.47.360 — 44.47.560 and shall use the money in the nonconforming housing loan fund to originate, purchase, or participate in the purchase of

(1) nonconforming housing mortgage loans;

(2) loans made for building materials for nonconforming housing;

(3) loans made for renovations or improvements to nonconforming housing;

(4) loans made for the construction of owner-occupied nonconforming housing other than loans to builders or contractors or loans that compensate an owner for his labor or services in constructing his own housing. (§ 73 ch 106 SLA 1980; am § 6 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originate" preceding "purchase" in the second sentence of the introductory language and added paragraph (4).

Sec. 44.47.385. Eligible locations. (a) The director may make loans from the nonconforming housing loan fund only for nonconforming housing loans to qualified buyers for nonconforming housing.

(b) Not more than 20 percent of the total principal amount of loans made for nonconforming housing may be made in cities of organized

boroughs and service areas of unified municipalities where the population of the city or service area exceeds 3,500.

(c) For purposes of (b) of this section, population shall be determined with reference to the 1980 preliminary census report as published in "Alaska 1980 Population" and released January 1, 1981, by the Department of Labor.

(d) In allocating money under (b) of this section, if a home proposed for financing is in more than one service area, that home shall be considered to be in the service area with the smallest population. (§ 17, ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, makes this section effective July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.47.390. Limitations on use of nonconforming housing loan fund. The director may not use the money in the nonconforming housing loan fund to

(1) originate a direct loan or purchase or participate in the purchase of a nonconforming housing mortgage loan which exceeds the limitations on mortgage loans purchased by the Federal National Mortgage Association as to principal amount or loan-to-value ratio;

(2) originate a direct loan or purchase or participate in the purchase of a loan made for building materials for nonconforming housing

(A) which exceeds $45,000 or exceeds

(i) 80 percent of the appraised value of the work completed on the nonconforming housing for which the loan is made if the nonconforming housing is pledged as collateral for the loan; or

(ii) 90 percent of the value of other property which is pledged as security for the loan and which is satisfactory to the director as collateral;

(B) unless the terms of the loan agreement require inspections and certifications, as required by regulations of the director, at the expense of the borrower; and

(C) unless the period of time allowed for repayment of the loan is equal to or less than 15 years;

(3) originate direct loans or purchase or participate in the purchase of a nonconforming housing mortgage loan which is secured by real property the marketable title to which is shown in accordance with AS 44.47.420(b)(2) if the total amount of outstanding nonconforming housing mortgage loans held by the division exceeds 10 times the amount of money in the restricted title loss reserve account (AS 44.47.430). (§ 73 ch 106 SLA 1980; am § 18 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originate a direct loan or" preceding "purchase or participate" and added "or loan-to-value ratio" in paragraph (1). In paragraph (2), the amendment added "originate a direct loan or" preceding "purchase or participate," added $45,000 or exceeds" in subparagraph (A), and in subparagraph (C), substituted "15 years" for

"the lesser of (i) three years; or (ii) the maximum period of time established by regulation by the director based on the prevailing practice among private financial institutions in the general area in which the loan is made for loans for the purchase of building materials." In paragraph (3), the amendment added "originate direct loans or" preceding "purchase or particpate." The amendment also repealed paragraph (4) which read "purchase or participate in the purchase or construction loans."

Sec. 44.47.395. Operating loss reserve account. (a) There is established in operating loss reserve account for the purpose of meeting legal expenses incurred through the foreclosure of properties acquired by the director under AS 44.47.370(6) and making repairs to these properties so that they may be sold to new buyers.

(b) The operating reserve loss account consists of money appropriated by the legislature. To the extent that money is paid out of the operating loss reserve account for the purposes stated in this section, this money shall be replaced with money received as interest on loans authorized by AS 44.47.010 — 44.47.998. (§ 19 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, makes this section effective July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.47.400. Security for loans. (a) The director shall adopt regulations in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650) establishing acceptable security for loans originated or purchased in whole or in part under AS 44.47.380.

(b) A person may pledge as security for the repayment of a loan originated or purchased in whole or in part under AS 44.47.380 a preference right he holds to receive title to land he occupies as a primary place of residence, primary place of business, subsistence campsite, or as headquarters for reindeer husbandry. The preference right must be conveyed to the person by the Native corporation to which the land was granted under section 14 of the Alaska Native Claims Settlement Act (85 Stat. 688, 43 U.S.C. secs. 1601 — 1626, as amended by P.L. 94-204) before it may be pledged as security under this subsection. The commissioner of community and regional affairs shall prescribe procedures and standard forms for establishing, pledging, and appraising the value of a preference right held by a person to secure the repayment of a loan originated or purchased in whole or in part under AS 44.47.380. (§ 73 ch 106 SLA 1980; am § 20 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originated or" preceding "purchased in whole" once in subsection (a) and twice in subsection (b).

Sec. 44.47.410. Interest on loans. The interest rate on a mortgage loan originated or purchased in whole or in part under AS 44.47.380 is equal to the interest rate, as determined under AS 18.56.098(g)(1) —

(4), on a mortgage loan purchased under AS 18.56.098(g) from the proceeds of the most recent applicable issue of taxable bonds before the origination or purchase of the mortgage loan originated or purchased under AS 44.47.380. (§ 73 ch 106 SLA 1980, am § 21 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, rewrote this section.

Sec. 44.47.420. Title. (a) Before the director originates or purchases a nonconforming housing mortgage loan in whole or in part, the director may require a borrower to show marketable title to real property offered as security for the loan to be purchased.

(b) A borrower may show marketable title to real property for the purposes of (a) of this section

(1) by purchasing title insurance from a title insurance company authorized to do business in the state; or

(2) by delivering to the director a copy of a letter of intent signed by an authorized representative of the United States Department of the Interior which shows the transfer of title to the property from the United States government to the borrower if

(A) the borrower is an Alaska Native; and

(B) title to the property was originally transferred from the United States government, directly or indirectly, to the borrower under federal law.

(c) For the purposes of this section, a deed which federal law prohibits or limits the power to transfer or encumber and which would otherwise constitute marketable title to real property is considered marketable title to real property if the United States Bureau of Indian Affairs or another appropriate federal agency waives immunity under the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980; am § 22 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originates or" preceding "purchases a nonconforming" in subsection (a).

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan originated or purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming

the federal law from foreclosure or other alienation of the real property. (§ 73 ch 106 SLA 1980)

Editor's note. — Section 76, ch. 106, SLA 1980 provides: "By January 21, 1981, the director of the division of housing assistance (AS 44.47.360) shall prepare and submit to the legislature to report on the effect of the marketable title requirements of AS 44.47.420 enacted by sec. 73 of this Act and shall include in the report any recommendations he considers appropriate."

Sec. 44.47.430. Restricted title loss reserve account. (a) There is established in the division the restricted title loss reserve account. The restricted title loss reserve account consists of money appropriated to it by the legislature and shall be administered by the director.

(b) The director may withdraw money from the restricted title loss reserve account in an amount equal to the loss to the division on a nonconforming housing mortgage loan purchased in whole or in part by the division if marketable title to the real property used to secure the loan was shown in accordance with AS 44.47.420(b)(2). Money withdrawn from the restricted title loss reserve account under this section shall be deposited in the nonconforming housing loan fund. (§ 73 ch 106 SLA 1980)

Sec. 44.47.440. Fire insurance. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may require the borrower to agree to purchase and maintain fire insurance for the real property for which the loan is made in an amount not less than the outstanding principal balance of the loan. (§ 73 ch 106 SLA 1980)

Sec. 44.47.460. Loan servicing. Before purchasing or participating in the purchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased. Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated fee on the division's share of the loan. The private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent. (§ 73 ch 106 SLA 1980)

Sec. 44.47.470. Appraisals. Before purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73 ch 106 SLA 1980)

Sec. 44.47.475. Energy audit exemption. In making loans under this chapter, the division is exempt from the requirements of AS 46.11.050(b). (§ 73 ch 106 SLA 1980)

housing loan fund. (§ 73 ch 106 SLA 1980; am § 23 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originated or" preceding "purchased in whole" in the first sentence of subsection (b).

Sec. 44.47.460. Loan origination and servicing. (a) Before purchasing or participating in the pruchase of a loan, the director shall enter into a loan servicing agreement with the private financial institution from which the loan is to be purchased.

(b) The director may execute service agreements with private lending institutions to service loans originated by the division.

(c) Under the servicing agreement, the private financial institution shall administer the loan and may charge the division a negotiated origination or servicing fee on the division's share of the loan. When appropriate, the private financial institution may also charge the borrower a reasonable originator fee not to exceed one percent.

(d) Loan origination and servicing agreements entered into under this section may provide for higher fees for loans made for nonconforming housing located outside of cities of organized boroughs and service areas of unified municipalities that have a population in excess of 3,500, than for other loans made for nonconforming housing. The division may pay a portion of the higher fees. (§ 73 ch 106 SLA 1980; am § 24 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, designated the former first sentence as subsection (a) and the former second and third sentences as subsection (c) and added subsections (b) and (d). In subsection (c), the amendment added "originating or servicing" preceding "fee" in the first sentence and substituted "when appropriate, the" for "the" at the beginning of the second sentence.

Sec. 44.47.470. Appraisals. Before originating or purchasing or participating in the purchase of a nonconforming housing mortgage loan, the director may have or may require the borrower to have an appraisal made of the fair market value of the real property, including structures on the real property, for which the loan is made. In conducting an appraisal under this section, the appraiser shall give full value to insulation and other features of construction in structures on the real property which add to the energy efficiency of the structures. (§ 73, ch 106 SLA 1980; am § 25 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originating or" preceding "purchasing or participating" near the beginning of the first sentence.

Sec. 44.47.490. Assistance of division personnel. (a) The director may establish field offices under AS 44.47.010 — 44.47.998 may hire one or more lending officers, and may contract for the services of

(1) real property appraisers who are familiar with rural construction; and

(2) engineers who are familiar with engineering problems in arctic and subarctic regions.

(b) The personnel described in (a) of this section may make visits to the regions established under AS 44.47.510(a) to provide preconstruction and post-construction inspections of real property for which loans are originated or purchased by the division in whole or in part under AS 44.47.380 and to provide assistance to private financial institutions and their borrowers in the regions. Authority for final approval of loans may not be exercised by the personnel described in this section. (§ 73 ch 106 SLA 1980; am § 26 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, substituted "may establish field offices under this chapter, may" for "shall" preceding "hire" deleted "at least" following "hire," added "or more" preceding "lending," substituted "officers" for "officer" following "lending" and substituted "may" for "shall" preceding "contract" in the introductory language of subsection (a). In subsection (b), the amendment substituted "may" for "shall" following "of this section," deleted "regular" preceding "visits," deleted "each of" preceding "the regions established," added "originated or" preceding "purchased by" and added the second sentence of the subsection.

Sec. 44.47.510. Regional allocation. (a) The commissioner of community and regional affairs, by regulations adopted in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650), shall establish and may amend the boundaries of reasonably compact and contiguous regions in the state.

(b) Unless otherwise required by an appropriation, the director shall allocate the money in the nonconforming housing loan fund among the regions established under (a) of this section for the purpose of originating or purchasing each type of loan described in AS 44.47.380. In making an allocation under this subsection, the director shall consider the past and potential lending activity of private financial institutions in the region as well as the need for loans in the region. The director may reallocate the money among the regions as he considers necessary. (§ 73 ch 106 SLA 1980; am § 27 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, added "originating or" preceding "purchasing each type" in the first sentence of subsection (b).

Article 10. Local Boundary Commission.

Sec. 44.47.583. When boundary change takes effect.

Stated in State, Dep't of Nat'l Resources v. City of Haines, Sup. Ct. Op. No. 2342 (File No. 5067), 627 P.2d 1047 (1981).

Chapter 89. Residential Energy Conservation Fund.

Section		Section	
10.	Fund established	40.	Sale or transfer of mortgages and notes
20.	Refunds and grants	500.	Definitions
30.	Loans		

Sec. 45.89.010. Fund established. There is established in the Department of Commerce and Economic Development the residential energy conservation fund to carry out the purposes of this chapter. Refunds, grants and loans made under this chapter may be used to purchase, construct, and install an energy conservation improvement in residential buildings. The fund may be used for no other purpose. (§ 35 ch 83 SLA 1980)

Sec. 45.89.020. Refunds and grants. (a) The department may make refunds or grants for the purchase, construction, and installation of an energy conservation improvement in a residential building if the person applying for a refund or grant demonstrates, on the basis of an energy audit, that the expenditures of the refund or grant for the purchase, construction or installation of the energy conservation improvement would be exceeded by reduced energy costs attributable to the purchase, construction or installation of the energy conservation improvement within seven years.

(b) A refund or grant made under this section may not exceed

(1) $300 for a single-family dwelling; or

(2) $.00 for each unit in a multi-unit residential building.

(c) The department

(1) shall establish simple procedures for the payment of a refund to an applicant within 30 days of submission to the department of an application by the applicant, if the application is supported by receipts for expenditures which comply with the results of an energy audit;

(2) may establish procedures for the payment of a grant to an applicant before the purchase, construction or installation of an energy conservation improvement. (§ 35 ch 83 SLA 1980)

Sec. 45.89.030. Loans. (a) The department may make loans for the purchase, construction, and installation of an energy conservation improvement in a residential building.

(b) A loan for the purchase, construction, and installation of an energy conservation improvement under this chapter may not exceed the lesser of

(1) an amount, as determined by an energy audit, which is equal to the estimated total energy cost saving attributable to the energy conservation improvement at a date which is 10 years after purchase, construction, or installation of the energy conservation improvement; or

(2) $5,000.

(c) A loan for the purchase, construction, and installation of an energy conservation improvement under this chapter may be made for only an energy conservation improvement which has been recommended, in any energy audit, as a measure which is likely to result in energy conservation or energy cost savings.

(d) A loan made under this chapter may be used to finance

(1) all of the cost of purchasing, constructing, and installing an energy conservation improvement; and

(2) the costs of labor for the installation of an energy conservation improvement.

(e) Interest shall be charged on a loan made under this chapter. If a loan is made before January 1, 1984, interest shall be five percent. If the loan is made after December 31, 1983, interest shall equal the percentage of the average weekly yield of municipal bonds for the 12 months preceding the loan, as determined by the commissioner from the municipal bond yield rates reported in the 30-year revenue index of the Weekly Bond Buyer.

(f) The duration of repayment of a loan made under this chapter may not exceed 10 years.

(g) The department may require security for a loan under this section. When a loan is made under this section, the department may require the loan applicant to present copies of invoices or billings for expenses which the proceeds of the loan will be used to pay.

(h) Amounts repaid on a loan made under this section shall be deposited to the residential energy conservation fund.

(i) A person who receives a loan under this section and knowingly uses the loan proceeds for purposes other than those set out in (d) of this section is guilty of the crime of misapplication of property under AS 11.46.620. (§ 35 ch 83 SLA 1980)

Sec. 45.89.040. Sale or transfer of mortgages and notes. The commissioner may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter. (§ 35 ch 83 SLA 1980)

Sec. 45.89.500. Definitions. In this chapter

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

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

(3) "energy audit" means

(A) an energy audit completed under AS 46.11.030;

(B) an energy audit performed under sec. 215(b)(1)(A) of the federal residential energy conservation program of the National Energy Conservation Policy Act (42 U.S.C. 8216(b)(1)(A)); or

(C) an energy audit completed before the effective date of this section which has been approved by the commissioner as an audit which fairly demonstrates the energy consumption characteristics of a residence and which indicates likely energy conservation and cost savings measures;

(4) "energy conservation improvement" means

(A) structural insulation;

(B) thermal windows and doors;

(C) a furnace replacement burner designed to achieve a reduction in the amount of fuel consumed as a result of increased combustion efficiency;

(D) a device for modifying flue openings designed to increase the efficiency of operation of the heating system;

(E) an electrical or mechanical furnace ignition system which replaces a gas pilot light;

(F) an automatic energy-saving setback thermostat;

(G) a meter which displays the cost of energy usage;

(H) caulking and weatherstripping of doors and windows;

(I) insulating shades and shutters;

(J) air and water recuperators;

(K) any other energy-saving device approved by the commissioner of commerce and economic development under AS 44.33.040(12). (§ 35 ch 83 SLA 1980)

Chapter 90. Tourism Revolving Fund.

Section		Section	
10.	Creation of a tourism revolving fund	30.	Limitations on loans
20.	Powers and duties of the Department of Commerce and Economic Development	40.	Sale or transfer of mortgages and notes

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Legislative history report. — For report on ch. 171, SLA 1972 (FCCS SCS CSHB 312), see 1971 House Journal, pp. 617, 618; 1972 House Journal, p. 556.

Sec. 45.90.010. Creation of a tourism revolving fund. There is created in the Department of Commerce and Economic Development a tourism revolving fund. (§ 1 ch 171 SLA 1972)

Sec. 45.90.020. Powers and duties of the Department of Commerce and Economic Development. (a) The department may

(1) make loans to a business directly involved in the tourist industry;

(2) designate agents and delegate powers to them as is necessary;

Chapter 11. Conservation of Energy and Materials.

Section
10. Thermal and lighting energy standards for public buildings
20. Training of public building maintenance personnel
30. Energy audits
40. Applicability of thermal and lighting energy standards to private buildings
50. Financing of energy efficient homes and buildings
60. Recycling of materials by state agencies
900. Definitions

Sec. 46.11.010. Thermal and lighting energy standards for public buildings. (a) All public facilities of the state, the construction of which begins after July 1, 1980, shall be designed to comply with the thermal and lighting energy standards adopted by the Department of Transportation and Public Facilities under AS 44.42.020(a)(14).

(b) By June 30, 1988, all public facilities of the state existing on July 1, 1980 shall be modified, to the extent economically feasible, to comply with the thermal and lighting energy standards adopted by the Department of Transportation and Public Facilities under AS 44.42.020(a)(14). (§ 36 ch 83 SLA 1980)

Editor's notes. — For declaration of legislative policy on energy conservation, see sec. 1, chapter 83, SLA 1980 in the Temporary and Special Acts and Resolves.

Sec. 46.11.020. Training of public building maintenance personnel. Persons responsible for the maintenance of public buildings designed with energy conservation or production features shall be trained by the department in the use and operation of those features. (§ 36 ch 83 SLA 1980)

Sec. 46.11.030. Energy audits. (a) The Department of Commerce and Economic Development shall

(1) establish criteria for the performance of energy audits of commercial and industrial buildings located in the state;

(2) establish criteria for the performance of energy audits of residences located in the state;

(3) develop a program by which to advise persons certified under AS 44.33.040(16) to perform energy audits of contracts to be awarded for performance of energy audits.

(b) The commissioner of commerce and economic development may contract with persons certified under AS 44.33.040(16) to perform energy audits. The commissioner of commerce and economic development may negotiate contracts or make contracts on the basis of competitive bids.

(c) The department may contract with a municipality for the performance of energy audits in the municipality.

(d) A person requesting an energy audit is required to pay for the audit. The fee for an audit of a one- or two-family residence is $10. The fee for an audit of other residences or of a commercial or industrial building shall be established by regulations adopted, in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650), by the commissioner of commerce and economic development.

(e) The department shall reimburse persons performing energy audits in the state for the cost, in excess of fees received, of performing energy audits. In this subsection "cost" includes administrative cost. (§ 36 ch 83 SLA 1980)

Sec. 46.11.040. Applicability of thermal and lighting energy standards to private buildings. State financial assistance may not be approved or granted for the construction of a new residential or commercial building if construction of the building begins after December 31, 1980, unless

(1) the building is in compliance with thermal and lighting energy standards;

(2) the building is in compliance with the building code of a municipality and the municipal building code meets or exceeds the thermal and lighting energy standards;

(3) the building

(A) is constructed under an exception to the municipal building code granted under AS 29.33.080(g); or

(B) is located or is to be located in an area where thermal and lighting energy standards are not justified because of the high cost of implementation of the standards, as determined under regulations adopted by the commissioner of commerce and economic development; or

(4) the applicant agrees, in writing, that the building will be brought into compliance with thermal and lighting energy standards within one year of conveyance. (§ 36 ch 83 SLA 1980)

Sec. 46.11.050. Financing of energy efficient homes and buildings. (a) After December 31, 1980, a financial institution shall take into consideration the economic benefits of alternative energy systems, life-cycle energy costs, energy efficient building design, and energy conservation when financing homes and buildings with state financial assistance.

(b) After December 31, 1980, a financial institution that makes home mortgage loans with money provided to it by the commissioner of revenue from surplus state general fund investments authorized by AS 37.10.070, or a state agency which makes a direct home mortgage loan to an applicant, shall include estimated heating and lighting costs as determined by an energy audit in standard principal, interest, taxes and insurance calculation of the cost of buying a housing unit. An applicant for a home mortgage loan shall provide the financial institution or the state agency with a copy of an energy audit. (§ 36 ch 83 SLA 1980)

SB

746

COMMITTEE MINUTES FORM

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

Committee Name: Senate Committee on Labor and Commerce Date: March 1, 1982
Members Present: Senator Mulcahy, Chairman
Senator Fahrenkamp
Senator Rodey
Senator Ziegler

Public hearing or committee meeting on:

COMMITTEE CALENDAR

SB 746	"An act making a special appropriation to the Department of Commerce and Economic Development, Office of Mineral Development, for production of a documentary film on Alaska's mining history and potential; and providing for an effective date."
bill number	bill title
bill number	bill title

WITNESS REGISTER

Witness Name: Mr. John Sims
Affiliation: Department of Commerce and Economic Dev,; Office of Mineral Developm
Address: 675 5th Ave., Fairbanks, Alaska
Phone:
Summarized Position Statement: Explained the Departments support for the concept of the bill and urged its passage.

PREVIOUS ACTION

Reference Number:
Statutory Reference:
Amendments Formelly Considered:

Member Moving Adoption: Senator Rodey moved that the bill be moved from committee with individual recommendations.
Action: Passed or Failed
Voting Record: 4 do pass

ACTION NARRATIVE

Tape Recording Number 0000

Chair opens at 004 with members 4 present etc.

Testimony begins at tape reading 216 and continues through tape reading 285.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 23, 1982

Honorable Robert Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

I am pleased to respond to your inquiry concerning the documentary film which is the subject of a special appropriation bill to the amount of $150,000 (SB 746) to the Department of Commerce and Economic Development.

I support the legislation which would appropriate to the Office of Mineral Development the sum involved. Initiatives are under way to have an "Alaska Session" included in the October 1982 Convention Program of the American Mining Congress which is to be held in Las Vegas. It is hoped that a high quality documentary film would be available to premiere at that gathering of the nation's foremost decision makers and leaders of the mining industry. Besides the film which would prelude the program, the "Alaska Session" would be chaired by members (member) of the Alaska Congressional Delegation and would comprise the following elements.

(1) Federal policy and perspectives towards mineral development in Alaska

(2) State policy and perspectives on mineral development in Alaska

(3) Overview of the coal mining scenario and potential in Alaska

(4) Overview of the hard rock mining scenario and potential in Alaska

A well planned and executed program will certainly attract a great deal of industry interest in Alaska and would be an initial trigger mechanism for expanded investment commitment in the State by the mining industry.

08-H2LH

As the appended proposal document stresses, the film in terms of quality and content, would be suitable for showing on public television and also for distribution to schools and other institutions.

It is my judgment that the benefits to be derived from the film will amply repay the relatively modest investment called for by this bill. For the appropriation to satisfy the goal of having a documentary completed in time for the October convention, the prompt passage of the bill is essential.

Sincerely,

E.W. Ebock

Charles R. Webber
Commissioner

CRW/shA-6

Enclosure: Proposal for a Documentary on
Alaska's Mining History and Potential

PROPOSAL FOR A DOCUMENTARY ON
ALASKA'S MINING HISTORY AND POTENTIAL

The American Mining Congress recently sponsored a survey of citizen attitudes towards mining. While only 16% of those polled felt at all familiar with mining, 43% believed it was damaging to the environment, 62% felt it was dangerous and unhealthy, and an incredible 96-97% felt mining was unnecessary to the national economy, unnecessary for the national defense and unnecessary to the quality of life.

As suggested by many industry spokesmen, such shockingly erroneous attitudes stem from the profound failure of America's educational system to teach its students the singular and immutable fact that modern civilization is made possible by, and remains dependent upon, the production and utilization of mineral resources. The resultant ignorance has fostered the misconception that mining is a dangerous and destructive enterprise that should be generally discouraged and locally forbidden. It is this ignorance which has allowed the piecemeal but cumulatively devastating withdrawal of public lands from mineral entry. It is this ignorance that has delivered to the country the specter of a national resource crisis.

The proposed documentary, which will be an accurate portrayal of historical and present mining activity in Alaska, will contribute to redressing this pervasive ignorance. It will show mines to people who have never seen a mine. It will take people underground. It will show them what a billion dollar orebody looks like in its natural disguise. They will be fascinated by a subject of which their only previous experience has been through souvenir shops and tourist displays. For the viewer, mining in Alaska will cease to be a clichéd recitation of sourdough sagas and will begin to assume its true dimension and importance. The educational process will have begun.

The documentary will debut in October 1982 to the delegates of the American Mining Congress Convention, the foremost assembly of public and private industry personnel. At the most obvious level, the delegates will be as interested as anyone in the historical content of the film. Additionally, they will be professionally interested in the contemporary segments which will serve, without explicit overtures needed, a promotional function. And finally, the delegates will recognize and appreciate the value of the film as a much needed educational tool. The presentation to this forum of a stimulating and professional quality film will generate interest in the state's resources and create industry wide respect for the state as a good place to do business.

The documentary will be promoted and distributed for both statewide and national television broadcast. It will also be available for extensive use in schools, colleges, conferences and speaking presentations.

As it is felt that the highest and best purpose of this documentary will be for its educational value, two guidelines will be strictly followed to insure the acceptance of the film by the widest possible audience.

1. Within the documentary narrative, subjective opinions or highly controversial issues will not be endorsed.

2. To avoid the stigma of being a public relations "flak film", the promotional message of the documentary will be implicit in its accurate informational content, rather than be an explicit "pitch".

The following outline describes how the goals discussed above will be achieved.

1. OBJECTIVES

The documentary will accurately portray Alaska's mining history, will

examine its present mines and visit the sites of its future mines. It will be, firstly and foremost, educational, but by virtue of its informational and tonal content, promotional.

2. THEME

The film, by content and tone, will portray mining in Alaska as the positive and essential enterprise it has been and can be, and by inference will be supportive of the mining industry in general.

3. DESCRIPTION OF THE FILM

Using archival photographs, interviews, existing film footage and other materials, Alaska's mining history will be documented. While the salient events will all be at least briefly covered, several of the more unique and fascinating aspects of the history will be explored in some detail. Site visits to existing and future mines as well as the use of existing film footage will be used in the balance of the film. A soundtrack will be recorded and incorporated with a narrative.

4. AUDIENCE

While the first audience to view the documentary will be the foremost gathering of mining industry personnel, the American Mining Congress Convention in 1982, the film will subsequently be heavily used as an educational tool for the spectrum of the population.

5. STYLE

The film will be an educational documentary but should be dynamic and

innovative. It will avoid highly technical or esoteric material but will not be intellectually condescending.

Within the narrative, subjective opinions concerning such highly controversial issues as environmental protection and land use philosphy will not be endorsed. The film will, however, make use of interviews, where appropriate, to address these issues.

6. BUDGET

The estimated budget for all phases of production, from planning through post production, is $150,000.

7. DISTRIBUTION

The film will be distributed for extensive use in schools, colleges, conventions, conferences, and speaking engagements as well as for television broadcast.

COMMITTEE REPORT

SENATE

2/11/82

FURTHER: Finance

Date: 1 March 82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 746

making a special appropriation to the Dept. of Commerce & Economic Development, office of mineral development, for production of a documentary film on Alaska's mining history and potential

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

[X] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

_____

CHAIRMAN

S 60 (Rev. 12/78)

SB
749

SEN. PATRICK RODEY
CHAIRMAN
(907) 465-3717

SEN. BOB MULCAHY
SEN. TERRY STIMSON
SEN. ARLISS STURGULEWSKI

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

ANALYSIS OF CS SENATE BILL NO. 749 (LABOR AND COMMERCE)

CSSB 749 (L&C) would amend language in Chapter 45 of the Alaska Statutes, Trade Practices, specifically 45.45.010(f). This particular subsection was adopted in 1973 and prohibits a lender from taking an equity participation in a loan transaction entered into with a borrower. There is neither case law nor legislative history to explain its inclusion in existing statutes.

In reviewing federal banking law, the committee finds no such prohibition against equity participation. On the contrary, the Office of the Comptroller of the Currency states in Interpretive Ruling 7.7312:

> A national bank may take as consideration for a loan a share in the profit, income or earnings from a business enterprise of a borrower. Such share may be in addition to or in lieu of interest. The borrower's obligation to repay principal, however, shall not be conditioned upon the profit, income or earnings of the business enterprise.
>
> 12 C.F.R. 7.7312

Likewise, in reviewing the banking laws of the other 49 states, the committee finds no such prohibition, although Tennessee does have a statute (47.24.102) which restricts a lender's ability to enter in to an equity participation in loan transactions of less than $1 million.

The committee is concerned about the flow of long-term capital into the state, and finds that the existing 45.45.010(f) inhibits that flow. Present economic conditions, marked by high inflation rates and high interest rates, have forced both developers and traditional long-term lenders to come up with new methods of financing which: (1) provide the lender protection against inflation, and (2) provide the developer an affordable interest rate.

An equity participation allows the lender to participate in the profit, income or earnings from a business enterprise of the borrower, thus providing him with the hedge he needs against inflation. It allows the borrower access to funds with which to develop projects that otherwise would not be economic at the higher interest rates required by traditional financing.

In supporting this legislation, it is the committee's intent that state regulators of financial institutions require lenders and borrowers to abide by the provision of C.F.R. 7.7312 which relates to the repayment of principal. In addition, the committee intends, by the inclusion of credit unions on line 10, to provide parity for all financial institutions doing business within the state. Finally, by inclusion of the limitations on loan amount and term, the committee intends to protect the interests of relatively unsophisticated borrowers.

COOK INLET REALTY CO. Better Homes and Gardens®
619 E. 5th Ave., Anchorage, Alaska 99501 Telephone (907) 276-0000

March 1, 1982

Senator Bob Mulcahy
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

Last year my partners and I encountered extreme difficulty in securing financing for the purchase of the Alaska Pacific Bank Building in Anchorage due to the statue prohibiting equity participation for the lender. We were successful in the long run but only after contacting eighty-two lenders.

In reading Senate Bill No. 749, I would make the following recommendations for change:

1. "if the term of the loan is less than 15 years" is too restrictive. Most interest sensitive lenders will require a call between the fifth and tenth year. Clarification is needed. Most equity participation loans will have an amortization of thirty (30) years with a call at year ten (10).

2. I would prefer the bill be shortened and end with "less than $1,000,000." By limiting equity participation loans to loans over $1,000,000, the legislature is automatically protecting the small, unsophisticated investor from private loan sharks.

In essence, I do not feel that the government should be involved in restricting free enterprise. If a purchaser can obtain a satisfactory yield through an equity participation loan with a lender, the state government should not prohibit such a transaction.

If we wish to keep our economy healthy in Alaska, we must not prohibit buyers from obtaining equity participation loans on whatever terms are acceptable to the buyer. Rental rates are insufficient to support the current high interest rates on a straight mortgage. As owners and purchasers of real estate, we need the latitude to negotiate the best loan package available and that is often an equity participation loan.

Please keep me informed as to the progress of Senate Bill 749. Thank you.

Marigale Compton

Marigale Compton CCIM

MC/dd

REALTOR MLS

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 25, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: SB 749, An Act Relating to Equity Participation

You have requested the position of the Department of Commerce and Economic Development on the above subject bill. First, let me say that, as written, we would find no detrimental impact on the safety and soundness of those financial institutions that we regulate. This is mainly covered by Lines 17 and 18 which provide that the loan principal cannot be conditioned upon profits, earnings or income.

In general, we are in favor of the bill and would support it. We feel that it will encourage financing that would not otherwise be available due to high rates. This legislation would also provide for a new source of participants in lendings, i.e., insurance company, that are otherwise prohibited without this legislation.

Provisions that provide for an exemption on one to four family owner-occupied dwellings will allow new methods of home financing that are springing up in other states. Any of these activities would not create any additional risk that is not already found in lending as it is known today and any risk could be adequately regulated if necessary.

If you wish any further information you may contact Mr. Kirkpatrick direct at 465-2521.

Sincerely,

E.W. Eboch

Edward W. Eboch
Deputy Commissioner

WFK/cw#10R4

08-H2LH

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 749; Summary

Allows equity participation in shared appreciation mortgages for loans greater than $1 million, and with terms in excess of 15 years, and for loans to acquire a one to four family dwelling to be used as the residence of the borrower. The obligation of the borrower to repay the principal may not be conditioned upon the profits, income, or earnings of a business enterprise of the borrower. Amends existing law to facilitate the flow of long term capital within Alaska.

CS for SB 749: Would permit equity participation in loans greater than $1 million and for terms in excess of 15 years.

HOGE AND LEKISCH
A PROFESSIONAL CORPORATION
ATTORNEYS AT LAW
437 "E" STREET, SUITE 500 • ANCHORAGE, ALASKA 99501
(907) 276-1726

ANDREW E. HOGE
PETER A. LEKISCH
WARREN G. KELLOGG
CALVIN R. JONES
ANN W. RESCH
RICHARD F. DEUSER

March 3, 1982

Senator Bob Mulcahy
Chairman, Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

Washington Mortgage Co., Inc. (WMC) has asked me to submit the following comments regarding Senate Bill 749.

1. WMC suggests that five (5) years be substituted for fifteen (15) years on the fifth line of the Bill. The reason for this suggested change is that loans that are presently being made in other states have a general term of five to ten years and, in order for Alaska to be competitive in the commercial real estate loan market, it should have a term requirement no more restrictive than the requirements of the present national commercial real estate loan market.

2. The last sentence of Senate Bill 749 appears to be contradictory to the first sentence in that it appears to state that the borrower does not have to repay principal dependent upon the profits, income, or earnings of a business enterprise of a borrower. Obviously, if a borrower has agreed to pay a percentage of profits, income, or earnings in consideration for an otherwise permitted loan and the borrower fails to pay the profit, income or earnings, the lender should have the right to declare a default and require the principal repayment. If the intent of the Special Committee on Banking is to mean something other than indicated above, then that intent should be more clearly reflected in the legislation or in an appropriate committee report.

Very truly yours,

Andrew E. Hoge

Andrew E. Hoge
Attorney for Washington Mortgage Co., Inc.

AEH/ms
cc: Senator Patrick Rodey, Attention Jim Kelly
Washington Mortgage Co., Inc.

COPY OF TELEGRAM BEING SENT TO MEMBERS OF SENATE
LABOR AND COMMERCE COMMITTEE 3/10/82

WASHINGTON MORTGAGE CO., INC.
2720 Third Avenue, Suite 300
Seattle, WA 98121
(206) 682-5240

March 10, 1982

Senator Bob Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Legislature
Room 119 Capitol Building
Juneau, AK 99811

Re: Senate Bill 749
Usury/Equity and Income Participation

Dear Senator Mulcahy and Committee Members:

It has come to our attention that the proposed change in the usury law is contingent upon the minimum loan amount being $1,000,000 and the minimum term of the loan being fifteen (15) years. We have no problem with the minimum loan amount being $1,000,000; however, we do have a real concern about the minimum term being fifteen (15) years. We feel that this will adversely affect the attraction of long term capital to the State of Alaska.

We recommend a minimum of five (5) years with an alternative of five (5) years for multi-family rental projects and ten (10) years for commercial projects. We hope the following paragraphs will clarify and support this recommendation.

Long term lending has changed over the past few years. Inflation has necessitated lenders to negotiate the term of their loans to much shorter periods with ten (10) years being the maximum today. Multi-family rental housing lending for the past five (5) to ten (10) years has been primarily provided by the thrift industry. Pension funds and life insurance companies have not provided this type financing and, in fact, a majority of the operating policies prohibit lending on apartments.

We have provided a lot of apartment lending in Alaska in the past; however, we have done no apartment lending in the past two (2) years because of your usury law. We feel that it is imperative to have five (5) years as a limitation in Senate Bill 749 for multi-family loans if we are to attract long term capital to your state to overcome your present housing shortage.

Very truly yours,

/s/

Roger J. O'Connell
Senior Vice President

WASHINGTON MORTGAGE CO INC AB
2720 3 AVE SUITE 300
SEATTLE WA 98121

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SENATOR BOB MULCAHY, CHAIRMAN
CARE STATE LABOR AND COMMERCE COMMITTEE
ROOM 119 CAPITOL BLDG
JUNEO AK 99811

REGARDING SENATE BILL #749 USURY/EQUITY AND INCOME PARTICIPATION.

IT HAS COME TO OUR ATTENTION THAT THE PROPOSED CHANGE IN THE JSURY LAW IS CONTINGENT UPON A MINIMUM LOAN AMOUNT BEING ONE MILLION DOLLARS. THE MINIMUM TERM OF THE LOAN BEING 15 YEARS.

WE HAVE NO PROBLEM WITH THE MINIMUM LOAN AMOUNT BEING ONE MILLION DOLLARS HOWEVER WE DO HAVE A REAL CONCERN ABOUT THE MINIMUM TERM BEING 15 YEARS. WE FEEL THAT THIS WILL ADVERSELY AFFECT THE ATTRACTION OF LONG TERM CAPITAL TO THE STATE OF ALASKA.

WE RECOMMEND A MINIMUM TERM OF FIVE YEARS WITH AN ALTERNATIVE OF FIVE YEARS FOR MULTI/FAMILY RENTAL PROJECTS AND TEN YEARS FOR COMMERCIAL PROJECTS. WE HOPE THE FOLLOWING PARAGRAPH WILL HELP CLARIFY AND SUPPORT THIS RECOMMENDATION.

LONG TERM LENDING HAS CHANGED OVER THE PAST FEW YEARS INFLATION HAS NECESSITATED LENDERS TO NEGOTIATE THE TERM OF THEIR LOAN TO MUCH SHORTER PERIODS WITH TEN YEARS BEING THE MAXIMUM TODAY.

MULTI/FAMILY RENTAL HOUSING LENDING FOR THE PAST FIVE TO TEN YEARS HAS BEEN PRIMARILY PROVIDED BY THE THRIFT INDUSTRY. PENSION FUNDS AND LIFE INSURANCE AGENCIES HAVE NOT PROVIDED THIS TYPE FINANCING AND IN FACT A MAJORITY OF THE OPERATING POLICIES PROHIBIT LENDING ON APARTMENTS.

WE HAVE PROVIDED A LOT OF APARTMENT LENDING IN ALASKA IN THE PAST HOWEVER WE HAVE DONE NO APARTMENT LENDING IN THE PAST TWO YEARS BECAUSE OF YOUR USURY LAW.

WE FEEL THAT IT IS IMPERATIVE TO HAVE FIVE YEARS AS THE LIMITATION IN SENATE BILL #749 FOR MULTI/FAMILY LOANS IF WE ARE TO ATTRACT LONG TERM CAPITAL TO YOUR STATE TO OVERCOME YOUR PRESENT HOUSING SHORTAGE.

SINCERELY
R J O'CONNELL
SENIOR VICE PRESIDENT
WASHINGTON MORTGAGE CO INC

1625 EST

TO REPLY BY MAILGRAM, SEE INSTRUCTIONS ON REVERSE SIDE

COOK INLET REALTY CO. Better Homes and Gardens®
619 E. 5th Ave., Anchorage, Alaska 99501 Telephone (907) 276 0000

March 1, 1982

Senator Bob Mulcahy
Chairman, Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Re: Senate Bill 749

Dear Senator Mulcahy:

Last year my partners and I encountered extreme difficulty in securing financing for the purchase of the Alaska Pacific Bank Building in Anchorage due to the statue prohibiting equity participation for the lender. We were successful in the long run but only after contacting eighty-two lenders.

In reading Senate Bill No. 749, I would make the following recommendations for change:

1. "if the term of the loan is less than 15 years" is too restrictive. Most interest sensitive lenders will require a call between the fifth and tenth year. Clarification is needed. Most equity participation loans will have an amortization of thirty (30) years with a call at year ten (10).

2. I would prefer the bill be shortened and end with "less than $1,000,000." By limiting equity participation loans to loans over $1,000,000, the legislature is automatically protecting the small, unsophisticated investor from private loan sharks.

In essence, I do not feel that the government should be involved in restricting free enterprise. If a purchaser can obtain a satisfactory yield through an equity participation loan with a lender, the state government should not prohibit such a transaction.

If we wish to keep our economy healthy in Alaska, we must not prohibit buyers from obtaining equity participation loans on whatever terms are acceptable to the buyer. Rental rates are insufficient to support the current high interest rates on a straight mortgage. As owners and purchasers of real estate, we need the latitude to negotiate the best loan package available and that is often an equity participation loan.

Please keep me informed as to the progress of Senate Bill 749. Thank you.

Marigale Compton

Marigale Compton CCIM

MC/dd

MLS REALTOR®

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 25, 1982

Honorable Bob Mulcahy, Chairman
Senate Labor & Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

RE: SB 749, An Act Relating to Equity Participation

You have requested the position of the Department of Commerce and Economic Development on the above subject bill. First, let me say that, as written, we would find no detrimental impact on the safety and soundness of those financial institutions that we regulate. This is mainly covered by Lines 17 and 18 which provide that the loan principal cannot be conditioned upon profits, earnings or income.

In general, we are in favor of the bill and would support it. We feel that it will encourage financing that would not otherwise be available due to high rates. This legislation would also provide for a new source of participants in lendings, i.e., insurance company, that are otherwise prohibited without this legislation.

Provisions that provide for an exemption on one to four family owner-occupied dwellings will allow new methods of home financing that are springing up in other states. Any of these activities would not create any additional risk that is not already found in lending as it is known today and any risk could be adequately regulated if necessary.

If you wish any further information you may contact Mr. Kirkpatrick direct at 465-2521.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

WFK/cw#10R4

08-H2LH

COPY OF TELEGRAM BEING SENT TO MEMBERS OF SENATE LABOR AND COMMERCE COMMITTEE 3/10/82

WASHINGTON MORTGAGE CO., INC.
2720 Third Avenue, Suite 300
Seattle, WA 98121
(206) 682-5240

March 10, 1982

Senator Bob Mulcahy
Chairman, Labor and Commerce Committee
Alaska State Legislature
Room 119 Capitol Building
Juneau, AK 99811

Re: Senate Bill 749
Usury/Equity and Income Participation

Dear Senator Mulcahy and Committee Members:

It has come to our attention that the proposed change in the usury law is contingent upon the minimum loan amount being $1,000,000 and the minimum term of the loan being fifteen (15) years. We have no problem with the minimum loan amount being $1,000,000; however, we do have a real concern about the minimum term being fifteen (15) years. We feel that this will adversely affect the attraction of long term capital to the State of Alaska.

We recommend a minimum of five (5) years with an alternative of five (5) years for multi-family rental projects and ten (10) years for commercial projects. We hope the following paragraphs will clarify and support this recommendation.

Long term lending has changed over the past few years. Inflation has necessitated lenders to negotiate the term of their loans to much shorter periods with ten (10) years being the maximum today. Multi-family rental housing lending for the past five (5) to ten (10) years has been primarily provided by the thrift industry. Pension funds and life insurance companies have not provided this type financing and, in fact, a majority of the operating policies prohibit lending on apartments.

We have provided a lot of apartment lending in Alaska in the past; however, we have done no apartment lending in the past two (2) years because of your usury law. We feel that it is imperative to have five (5) years as a limitation in Senate Bill 749 for multi-family loans if we are to attract long term capital to your state to overcome your present housing shortage.

Very truly yours,

/s/

Roger J. O'Connell
Senior Vice President

(1)

Under the standard of subsection (e) of this section, the courts have utilized a flexible, ad hoc approach to determine, by an essentially factual inquiry, the extent to which an error in the financing statement would be misleading to one undertaking a reasonable search. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Where a financing statement and its underlying loan documents mistakenly identified a debtor as the predecessor partnership rather than the corporation, the financing statement was seriously misleading and the lender had no perfected security interest in the assets of the corporation. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Article 5. Default.

Sec. 45.09.504. Secured party's right to dispose of collateral after default; effect of disposition.

NOTES TO DECISIONS

Noncompliance with subsection (c). In accord with 1st paragraph in original. See Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If a sale was deficient with respect to either notice or commercial reasonableness, then a burden is placed upon the secured party to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

The burden is on the secured party to prove by clear and convincing evidence the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If the secured party fails to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt, then the presumption leads to the conclusion that the entire debt is discharged. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Factors in determining value of collateral. — The local economic market at the time of sale is a recognized factor in determining the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Chapter 45. Trade Practices.

Article
1. Interest (§ 45.45.010)

Article 1. Interest.

Section
10. Legal rate of interest

Sec. 45.45.010. Legal rate of interest. (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

(c) Repealed by § 3 ch 84 SLA 1973.

(d) Repealed by § 2 ch 94 SLA 1981.

(e) Repealed by § 4 ch 146 SLA 1974.

(f) No bank, savings and loan institution, pension fund, insurance company or mortgage company may require or accept any per cent of ownership or profits above its interest rate.

(g) Loan contracts and commitments covering one- to four-family dwellings may be prepaid without penalty, except federally insured loans that require a prepayment penalty.

(h) If the limitations on interest rates provided for in this section are inconsistent with the provisions of any other statute covering maximum interest, service charges or discount rates then the provisions of the other statute prevail. (§ 25-1-1 ACLA 1949; am § 20 ch 143 SLA 1968; am § 2 ch 69 SLA 1969; am §§ 1, 2 ch 94 SLA 1969; am §§ 1, 2 ch 239 SLA 1970; am §§ 1—3 ch 84 SLA 1973; am §§ 1—4 ch 146 SLA 1974; am § 1 ch 110 SLA 1976; am § 1 ch 159 SLA 1976; am § 2 ch 107 SLA 1980; am §§ 1, 2 ch 94 SLA 1981)

Cross references. — As to alternate technology and power resource loans, see AS 45.88.050(e).

Effect of amendments. — The 1981 amendment, effective July 27, 1981, in subsection (b), deleted "dated after June 4, 1976" following "contract or loan commitment" and substituted "on the day on" for "that prevailed on the 25th day of the month preceding the commencement of the calendar quarter during" preceding "which the contract" in the first sentence and substituted "$25,000" for "$100,000" preceding "is exempt" in the second sentence. The amendment also repealed subsection (d) which read "Notice of the annual rate charge member banks for advances by the 12th Federal Reserve District prevailing on the 25th day of the month preceding the commencement of each calendar quarter required for the maximum interest rate computation under (b) of this section shall be provided by the Department of Commerce and Economic Development."

NOTES TO DECISIONS

Cited in State v. Alaska Continental Dev. Corp., Sup. Ct. Op. No. 2254 (File Nos. 4121, 4122), 630 P.2d 977 (1980).

Chapter 50. Competitive Practices and Regulation of Competition.

Article 4. Unfair Trade Practices and Consumer Protection.

Sec. 45.50.471. Unlawful acts and practices.

NOTES TO DECISIONS

Similarity to federal law. — The prohibition in this section against "unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce" is substantially similar to that contained in section 5(a)(1) of the Federal Trade Commission Act, 15 U.S.C. § [illegible]; Matanuska Maid, Inc. v.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 749
Title An Act relating to equity participation
Requested by Labor and Commerce Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Financial Institutions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans, & Corp.
PHONE 465-2521

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

[illegible]-001 (Rev. 12/81)

SB

750

VINCENT W. JONES
GENERAL COUNSEL
(213) 576-4766

Sears, Roebuck and Co.

WESTERN LAW OFFICES
900 SOUTH FREMONT AVENUE
ALHAMBRA, CALIFORNIA 91802

February 17, 1982

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JOSEPH M. MORALES 576-4618
HARR[illegible]AHLSTRAND 576-4426
MICHAEL G. WICK 576-4725

OUR FILE NO.

Don Magnusson
Executive Director
Alaska Retail Association
310 Second Street
Juneau, AK 99801

Re: Alaska SB 750 - Rate Deregulation

Dear Don:

I have a thought and a question about this bill.

First, the thought. In order to be technically correct, the title of the bill ought to be "An Act relating to the deregulation of interest rates and service charges; and providing for an effective date."

Next, the question. Do you know why at page 3, line 1, the phrase "balances from month to month" was changed to "balance"? Whatever the rate, doesn't it have to be applied to a monthly balance, or balance from month to month? If there is only one balance, which one is it and when is it struck?

Sincerely yours,

Charles McKenney

Charles McKenney

CPM:blp

cc: John Andrew
J. M. Morales

SECTION 7 REPEALERS:

AS 06.20.230 (b) and (c)

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance determined in AS 06.20.285(b) [illegible]

Repeals: AS 06.45.060(5) (A) (vi)

the rate of interest may not exceed the greater of 15% a year or the rate specified as AS 45.45.010(b)

Repeals AS 45.45.010 (b)

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

TITLE V—STATE USURY LAWS

PART A—MORTGAGE USURY LAWS

MORTGAGES

SEC. 501. (a)(1) The provisions of the constitution or the laws of any State expressly limiting the rate or amount of interest, discount points, finance charges, or other charges which may be charged, taken, received, or reserved shall not apply to any loan, mortgage, credit sale, or advance which is— 12 USC 1735f-7 note.

(A) secured by a first lien on residential real property, by a first lien on stock in a residential cooperative housing corporation where the loan, mortgage, or advance is used to finance the acquisition of such stock, or by a first lien on a residential manufactured home;

(B) made after March 31, 1980; and

(C) described in section 527(b) of the National Housing Act (12 U.S.C. 1735f-5(b)), except that for the purpose of this section—

(i) the limitation described in section 527(b)(1) of such Act that the property must be designed principally for the occupancy of from one to four families shall not apply;

(ii) the requirement contained in section 527(b)(1) of such Act that the loan be secured by residential real property shall not apply to a loan secured by stock in a residential cooperative housing corporation or to a loan or credit sale secured by a first lien on a residential manufactured home;

(iii) the term "federally related mortgage loan" in section 527(b) of such Act shall include a credit sale which is secured by a first lien on a residential manufactured home and which otherwise meets the definitional requirements of section 527(b) of such Act, as those requirements are modified by this section; "Federally related mortgage loan."

(iv) the term "residential loans" in section 527(b)(2)(D) of such Act shall also include loans or credit sales secured by a first lien on a residential manufactured home; "Residential loans."

(v) the requirement contained in section 527(b)(2)(D) of such Act that a creditor make or invest in loans aggregating more than $1,000,000 per year shall not apply to a creditor selling residential manufactured homes financed by loans or credit sales secured by first liens on residential manufactured homes if the creditor has an arrangement to sell such loans or credit sales in whole or in part, or if such loans or credit sales are sold in whole or in part to a lender, institution, or creditor described in section 527(b) of such Act or in this section or a creditor, as defined in section 103(f) of the Truth in Lending Act, as such section was in effect on the day preceding the date of enactment of this title, if such creditor makes or invests in residential real estate loans or loans or credit sales secured by first liens on residential manufactured homes aggregating more than $1,000,000 per year; and 15 USC 1602.

(vi) the term "lender" in section 527(b)(2)(A) of such Act shall also be deemed to include any lender approved by the Secretary of Housing and Urban Development for participation in any mortgage insurance program under the National Housing Act. "Lender."

"Depository institution."

(2)(A) The provisions of the constitution or law of any State expressly limiting the rate or amount of interest which may be charged, taken, received, or reserved shall not apply to any deposit or account held by, or other obligation of a depository institution. For purposes of this paragraph, the term "depository institution" means—

(i) any insured bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(ii) any mutual savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iii) any savings bank as defined in section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813);

(iv) any insured credit union as defined in section 101 of the Federal Credit Union Act (12 U.S.C. 1752);

(v) any member as defined in section 2 of the Federal Home Loan Bank Act (12 U.S.C. 1422); and

(vi) any insured institution as defined in section 408 of the National Housing Act (12 U.S.C. 1730a).

Exemption.

12 USC 1813.

(B) This paragraph shall not apply to any such deposit, account, or obligation which is payable only at an office of an insured bank, as defined in section 3 of the Federal Deposit Insurance Act, located in the Commonwealth of Puerto Rico.

Effective date.

(b)(1) Except as provided in paragraphs (2) and (3), the provisions of subsection (a)(1) shall apply to any loan, mortgage, credit sale, or advance made in any State on or after April 1, 1980.

Exemption, State action.

(2) Except as provided in paragraph (3), the provisions of subsection (a)(1) shall not apply to any loan, mortgage, credit sale, or advance made in any State after the date (on or after April 1, 1980, and before April 1, 1983) on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of subsection (a)(1) to apply with respect to loans, mortgages, credit sales, and advances made in such State.

(3) In any case in which a State takes an action described in paragraph (2), the provisions of subsection (a)(1) shall continue to apply to—

(A) any loan, mortgage, credit sale, or advance which is made after the date such action was taken pursuant to a commitment therefor which was entered during the period beginning on April 1, 1980, and ending on the date on which such State takes such action; and

(B) any loan, mortgage, or advance which is a rollover of a loan, mortgage, or advance, as described in regulations of the Federal Home Loan Bank Board, which was made or committed to be made during the period beginning on April 1, 1980, and ending on the date on which such State takes any action described in paragraph (2).

Discount points, limitation.

(4) At any time after the date of enactment of this Act, any State may adopt a provision of law placing limitations on discount points or such other charges on any loan, mortgage, credit sale, or advance described in subsection (a)(1).

(c) The provisions of subsection (a)(1) shall not apply to a loan, mortgage, credit sale, or advance which is secured by a first lien on a residential manufactured home unless the terms and conditions relating to such loan, mortgage, credit sale, or advance comply with consumer protection provisions specified in regulations prescribed by the Federal Home Loan Bank Board. Such regulations shall—

(1) include consumer protection provisions with respect to balloon payments, prepayment penalties, late charges, and deferral fees;

(2) require a 30-day notice prior to instituting any action leading to repossession or foreclosure (except in the case of abandonment or other extreme circumstances);

(3) require that upon prepayment in full, the debtor shall be entitled to a refund of the unearned portion of the precomputed finance charge in an amount not less than the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1; and

(4) include such other provisions as the Federal Home Loan Bank Board may prescribe after a finding that additional protections are required.

(d) The provisions of subsection (c) shall not apply to a loan, mortgage, credit sale, or advance secured by a first lien on a residential manufactured home until regulations required to be issued pursuant to paragraphs (1), (2), and (3) of subsection (c) take effect, except that the provisions of subsection (c) shall apply in the case of such a loan, mortgage, credit sale, or advance made prior to the date on which such regulations take effect if the loan, mortgage, credit sale, or advance includes a precomputed finance charge and does not provide that, upon prepayment in full, the refund of the unearned portion of the precomputed finance charge is in an amount not less the amount which would be calculated by the actuarial method, except that the debtor shall not be entitled to a refund which is less than $1. The Federal Home Loan Bank Board shall issue regulations pursuant to the provisions of paragraphs (1), (2), and (3) of subsection (c) that shall take effect prospectively not less than 30 days after publication in the Federal Register and not later than 120 days from the date of enactment of this Act. Regulations.

(e) For the purpose of this section— Definitions.

(1) a "prepayment" occurs upon—

(A) the refinancing or consolidation of the indebtedness;

(B) the actual prepayment of the indebtedness by the consumer whether voluntarily or following acceleration of the payment obligation by the creditor; or

(C) the entry of a judgment for the indebtedness in favor of the creditor;

(2) the term "actuarial method" means the method of allocating payments made on a debt between the outstanding balance of the obligation and the precomputed finance charge pursuant to which a payment is applied first to the accrued precomputed finance charge and any remainder is subtracted from, or any deficiency is added to, the outstanding balance of the obligation;

(3) the term "precomputed finance charge" means interest or a time price differential within the meaning of sections 106(a) (1) and (2) of the Truth in Lending Act (15 U.S.C. 1605(a) (1) and (2)) as computed by an add-on or discount method; and

(4) the term "residential manufactured home" means a mobile home as defined in section 603(6) of the National Mobile Home Construction and Safety Standards Act of 1974 which is used as a residence. 42 USC 5402.

(f) The Federal Home Loan Bank Board is authorized to issue rules and regulations and to publish interpretations governing the implementation of this section. Rules and regulations.

(g) This section takes effect on April 1, 1980. Effective date.

PART B—BUSINESS AND AGRICULTURAL LOANS

BUSINESS AND AGRICULTURAL LOANS

12 USC 86a.

SEC. 511. (a) If the applicable rate prescribed in this section exceeds the rate a person would be permitted to charge in the absence of this section, such person may in the case of a business or agricultural loan in the amount of $25,000 or more, notwithstanding any State constitution or statute which is hereby preempted for the purposes of this section, take, receive, reserve, and charge on any such loan, interest at a rate of not more than 5 per centum in excess of the discount rate, including any surcharge thereon, on ninety-day commercial paper in effect at the Federal Reserve bank in the Federal Reserve district where the person is located.

(b) If the rate prescribed in subsection (a) exceeds the rate such person would be permitted to charge in the absence of this section, and such State imposed rate is thereby preempted by the rate described in subsection (a), the taking, receiving, reserving, or charging a greater rate than is allowed by subsection (a), when knowingly done, shall be deemed a forfeiture of the entire interest which the loan carries with it, or which has been agreed to be paid thereon. If such greater rate of interest has been paid, the person who paid it may recover, in a civil action commenced in a court of appropriate jurisdiction not later than two years after the date of such payment, an amount equal to twice the amount of interest paid from the person taking, receiving, reserving, or charging such interest.

EFFECTIVE DATE OF PART B

12 USC 86a note.

SEC. 512. The provisions of this part shall apply only with respect to business or agricultural loans in amounts of $25,000 or more made in any State during the period beginning on April 1, 1980, and ending on the earlier of—

(1) April 1, 1983; or

(2) the date, on or after April 1, 1980, on which such State adopts a law or certifies that the voters of such State have voted in favor of any provision, constitutional or otherwise, which states explicitly and by its terms that such State does not want the provisions of this part to apply with respect to loans made in such State,

except that such provisions shall apply to any loan made on or after such earlier date pursuant to a commitment to make such loan which was entered into on or after April 1, 1980, and prior to such earlier date.

PART C—OTHER LOANS

INSURED BANKS

SEC. 521. The Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.) is amended by adding at the end thereof the following new section:

12 USC 1831d.

"SEC. 27. (a) In order to prevent discrimination against State-chartered insured banks, including insured savings banks and insured mutual savings banks, or insured branches of foreign banks with respect to interest rates, if the applicable rate prescribed in this subsection exceeds the rate such State bank or insured branch of a foreign bank would be permitted to charge in the absence of this subsection, such State bank or such insured branch of a foreign bank may, notwithstanding any State constitution or statute which is

hereby preempted for th
reserve, and charge on an
bill of exchange, or other
more than 1 per centum h
commercial paper in effe
Federal Reserve district
branch of a foreign bank is
of the State, territory, or
ever may be greater.

"(b) If the rate prescribe
State bank or such insur
permitted to charge in th
fixed rate is thereby preem
(a), the taking, receiving,
interest than is allowed by s
be deemed a forfeiture of th
other evidence of debt carri
paid thereon. If such greater
who paid it may recover in
appropriate jurisdiction not
such payment, an amount e
paid from such State bank o
taking, receiving, reserving,

INSURED SAVING

SEC. 522. Title IV of the N
seq.) is amended by adding
section:

"SEC. 414. (a) If the appl
exceeds the rate an insured i
in the absence of this section,
any State constitution or stat
purposes of this section, tak
loan or discount made, or up
evidence of debt, interest at a
excess of the discount rate on
at the Federal Reserve bank
such institution is located or
State, territory, or district wh
ever may be greater.

"(b) If the rate prescribed i
institution would be permitt
section, and such State fixed
described in subsection (a), the
ing a greater rate of interest t
when knowingly done, shall
interest which the note, bill, or
or which has been agreed to b
interest has been paid, the per
action commenced in a court
than two years after the date
twice the amount of the intere
receiving such interest.".

LINQUENCY DATA

ing and Urban Development shall asibility of collecting data pertain- encies on an appropriate regional cable, but not later than April 1, port containing the results of such

O SECTION 234

of section 234(c) of the National ing after "Act)" the following: "or rantee, insurance, or a direct loan States Code".

MALL GROUP HOMES AND SIMILAR HE HANDICAPPED

Housing Act of 1959 is amended by lowing: "In the case of housing to rimarily nonelderly) persons, such iring existing housing and related ation, alteration, conversion, or ate rehabilitation, thereof, and the ousing and related facilities are

F PREMIUM CHARGES

Housing Act is amended by adding d thereof:

OF PREMIUM CHARGES

ovisions of titles I, II, IV, VII, VIII, e payment of loan or mortgage inancial institution, other mortga- l Government in connection with a am established pursuant to any of quire that payment of such premi- receipt from the borrower; except ayment of such premiums within eipt if the financial institution, interest, at a rate specified by the r the period beginning twenty days and ending upon payment of the ent.".

E SECTION 203(k) REHABILITATION NCE PROGRAM

National Housing Act is amended e and inserting in lieu thereof the d with respect to loans secured by a r this subsection shall be paid in t that all references in section 204 nce Fund shall be construed as ce Fund. Insurance benefits paid y a mortgage other than a first

mortgage and insured under this subsection shall be paid in accordance with paragraphs (6) and (7) of section 220(h), except that reference to 'this subsection' in such paragraphs shall be construed as referring to this subsection.". 12 USC 1715k

VALLEY HOMES MUTUAL HOUSING CORPORATION

SEC. 322. (a) Notwithstanding any other provision of law, Valley Homes Mutual Housing Corporation, obligor on a note and mortgage secured by a multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio and held by the Government National Mortgage Association, is hereby relieved of all liability to the Government for the outstanding principal balance on the above mentioned mortgage; for the amount of accrued out unpaid interest thereon; and for taxes, insurance, and other charges previously paid by the Government. This release from liability is in full settlement of all present and any future claims Valley Homes Mutual Housing Corporation, its successors and assigns may have against the United States or any of its Agencies concerning the mortgagor's purchase of the mortgaged premises from the Public Housing Administration in 1954.

(b) The President of the Government National Mortgage Association is authorized and directed to release Valley Homes Mutual Housing Corporation from its liability to the Association and to discharge the mortgage note secured by the mortgage on the multifamily housing project located at 972 Medosch Avenue, Lincoln Heights, Ohio.

(c) No amount in excess of ten per centum of the principal and interest due upon the mortgage released under subsection (b) of this provision shall be paid to or received by an attorney or other person in consideration for services rendered in connection with the claims of Valley Homes Mutual Housing Corporation against the United States or any of its Agencies referred to in subsection (a) of this provision. Any person who violates this subsection shall be fined not more than $1,000. Penalty.

STUDY OF FACTORY-BUILT HOUSING

SEC. 323. The Secretary of Housing and Urban Development shall study the feasibility of utilizing factory-built and other appropriate types of housing (other than the traditional type of site-built housing), to the extent practicable, in carrying out housing programs for Indians and Alaskan Native, and shall, not later than eighteen months after the date of enactment of this Act, transmit a report to the Congress containing the findings and conclusions of such study, including a comparison of the costs and benefits of utilizing the traditional type of site-built housing and of utilizing other types of housing in situations in which either type of housing could be used. Study; report to Congress. 12 USC 1715d note.

USURY PROVISIONS

SEC. 324. (a) Section 501(a)(1)(A) of the Depository Institutions Deregulation and Monetary Control Act of 1980 is amended— *Ante*, p. 161.

(1) by striking out "stock" the first place it appears and inserting in lieu thereof "all stock allocated to a dwelling unit"; and

(2) by striking out "where the loan, mortgage, or advance is used to finance the acquisition of such stock".

OVER

Ante, p. 164.

(b) Section 511 of such Act is amended by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

Definitions.

"(b) For the purpose of this part—

"(1) the term 'loan' includes all secured and unsecured loans, credit sales, forbearances, advances, renewals or other extensions of credit made by or to any person or organization for business or agricultural purposes;

"(2) the term 'interest' includes any compensation, however denominated, for a loan;

"(3) the term 'organization' means a corporation, government or governmental subdivision or agency, trust, estate, partnership, cooperative, association, or other entity; and

"(4) the term 'person' means a natural person or organization.".

Ante, p. 164.

(c)(1) Section 512 of such Act is amended—

(A) by inserting "(a)" after "Sec. 512."; and

(B) by adding at the end thereof the following:

"(b) A loan shall be deemed to be made during the period described in subsection (a) if such loan—

"(1)(A) is funded or made in whole or in part during such period, regardless of whether pursuant to a commitment or other agreement therefor made prior to April 1, 1980;

"(B) was made prior to or on April 1, 1980, and bears or provides for interest during such period on the outstanding amount thereof at a variable or fluctuating rate; or

"(C) is a renewal, extension, or other modification during such period of any loan, if such renewal, extension, or other modification is made with the written consent of any person obligated to repay such loan; and

"(2)(A) is an original principal amount of $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980); or

Ante, p. 1614.

"(B) is part of a series of advances if the aggregate of all sums advanced or agreed or contemplated to be advanced pursuant to a commitment or other agreement therefor is $25,000 or more ($1,000 or more on or after the date of enactment of the Housing and Community Development Act of 1980).".

Effective date.
12 USC 86a note.

(2) The amendments made by paragraph (1) take effect on April 1, 1980.

Ante, p. 164.

(d) Part B of title V of such Act, other than section 512(b), is amended by striking out "$25,000" wherever it appears and inserting in lieu thereof "$1,000".

Ante, p. 161.

(e) Section 501(a)(1)(C)(vi) of such Act is amended by inserting before the period at the end thereof the following: ", and any individual who finances the sale or exchange of residential real property which such individual owns and which such individual occupies or has occupied as his principal residence".

LIQUID, HIGHLY RATED CORPORATE DEBT OBLIGATIONS

SEC. 325. (a) The first sentence of section 5A(b)(1) of the Federal Home Loan Bank Act is amended—

12 USC 1425a.

(1) by striking out "and" before "(E)";

(2) by redesignating clause (E) as subparagraph (E);

(3) by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a semicolon; and

(4) by adding at the end thereof the following:

Chapter 20. Alaska Small Loans Act.

Section
10. License required
200. Advertising of misleading statements prohibited
230. Maximum interest permitted
250. Computation and payment of interest
260. Charges prohibited
270. Requirements for making and payment of loans
280. Maximum charge by licensee
285. Open-end loans
287. Credit insurance on open-end loans
290. Purchase of wages for $25,000 or less
300. Maximum charges by nonlicensee on loans
310. Illegal interest rate
320. Civil and criminal penalties
330. Exemptions
900. Definitions

Sec. 06.20.010. License required. A person may not engage in the business of making loans of money, credit, goods, or things in action in the amount or of the value of $25,000 or less and charge, contract for, or receive on the loan a greater rate of interest, discount, or consideration than the lender would be permitted by law to charge if he were not a licensee under AS 06.20.010 — 06.20.920, except as authorized by AS 06.20.010 — 06.20.920 and without first obtaining a license from the department. (§ 2 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 23 ch 218 SLA 1976; am § 1 ch 71 SLA 1978; am § 1 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "A" for "No" at the beginning of the section and "$25,000" for "$5,000," and inserted "not" following "A person may" near the beginning of the section.

Sec. 06.20.200. Advertising of misleading statements prohibited. (a) A person may not advertise, print, display, publish, distribute, or broadcast or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to the rates, terms, or conditions for the lending of money, credit, goods, or things in action in the amount or of the value of $25,000 or less, which is false, misleading, or deceptive. The department may order any licensee to desist from any conduct which it finds to be in violation of this section.

(b) The department may require rates of charge stated by a licensee to be stated fully and clearly in the manner considered necessary to prevent misunderstanding by prospective borrowers. (§ 13 ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 6 ch 71 SLA 1978; am § 2 ch 63 SLA 1980)

Effect of amendments. — The 1980 amendment, in subsection (a), substituted "A" for "No" at the beginning of the subsection, and "$25,000" for "$5,000" near the end of the first sentence, and inserted "not" following "A person may" near the beginning of the subsection.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract

for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

REPEALED

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under AS 06.20.010 — 06.20.920 or who makes a loan under AS 06.20.010 — 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments. — The 1979 amendment added subsection (b).

The 1980 amendment, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the making of the loan contract. The maximum interest permitted on loans made under AS 06.20.010 — 06.20.920 shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(b) A licensee may compute interest for a loan as provided in AS 06.20.010 — 06.20.920 on an interest-bearing or actuarial basis either

the unearned premium on the policy being financed at that time. No deficiency balance may be established or collected from the borrower. This section does not preclude the licensee from establishing or collecting a deficiency balance to the extent the insurer offsets unearned premiums on the policy financed by premiums earned by reason of endorsements to that same policy not paid for by the insured or financed by the licensee.

(d) The licensee or the insurance agent shall deliver to the borrower, or mail to him at his address shown in the agreement, a complete copy of the agreement. (§ 1 ch 170 SLA 1978)

Sec. 06.40.120. Maximum interest permitted: Prepayment, refund. (a) A premium finance company may not charge, contract for, receive, or collect a service charge other than as permitted by this chapter.

(b) The service charge is to be computed on the balance of the premiums due, after substracting the down payment made by the borrower in accordance with the premium finance agreement, from the effective date of the insurance coverage, for which the premiums are being advanced, to and including the date when the final payment of the premium finance agreement is payable.

(c) The service charge may not exceed interest at the nominal annual rate of 15 per cent plus an additional charge of $10 per premium finance agreement which need not be refunded upon cancellation or prepayment. However, any borrower may prepay his premium finance agreement in full at any time before the due date of the final payment and in that event the unearned service charge shall be refunded. The amount of any refund shall be calculated in accordance with regulations adopted by the commissioner. (§ 1 ch 170 SLA 1978)

Sec. 06.40.130. Delinquency charge. (a) A premium finance agreement may provide for the payment by the borrower of a delinquency charge for any payment that is in default for a period of 10 days or more. The charge may be made for each month or fraction of a month that the payment is in default. The amount of the charge may be a minimum of $1 and as a maximum shall be subject to the following limits:

(1) for delinquent payments of less than $250, five per cent of the payment or $5, whichever is less; or

(2) for delinquent payments of $250 or more, two per cent of the payment.

(b) A borrower may at his option separate the financing of the premiums for one insurance policy from a premium finance agreement by requesting in writing that the premium finance company provide that service and by paying a $10 separate charge. (§ 1 ch 170 SLA 1978)

Sec. 06.40.140. Cancellation of policy; requirements. (a) When a premium finance agreement contains a power of attorney enabling the licensee to cancel the insurance policy listed in the agreement, the

(3) adopt, use, and alter a common seal;

(4) purchase, hold, and dispose of property;

(5) make loans, the maturities of which may not exceed 12 years except as provided in AS 06.45.010 — 06.45.400, and extend lines of credit to its members, to other credit unions, and to credit union organizations and participate with other credit unions, credit union organizations, or financial organizations in making loans to credit union members in accordance with the following:

(A) loans to members shall be made in conformity with regulations adopted by the commissioner, except that

(i) a residential real estate loan which is made to finance the acquisition of a one-to-four-family dwelling for the principal residence of a credit union member which is secured by a first lien on the dwelling may have a maturity not exceeding 30 years;

(ii) a loan to finance the purchase of a mobile home, which is secured by a first lien on the mobile home, to be used as the residence of a credit union member, or for the repair, alteration, or improvement of a residential dwelling which is the residence of a credit union member shall have a maturity not to exceed 15 years unless the loan is insured or guaranteed under (iii) of this subparagraph;

(iii) a loan secured by the insurance or guarantee of the federal government, of a state government, or an agency of either may be made for the maturity and under the terms and conditions specified in the law under which the insurance or guarantee is provided;

(iv) a loan or aggregate of loans to a director or member of the supervisory or credit committee of the credit union making the loan which exceeds $5,000 plus pledged shares shall be approved by the board of directors;

(v) loans to other members for which directors or members of the supervisory or credit committee act as guarantor or endorser shall be approved by the board of directors when the loans standing alone or when added to an outstanding loan or loans of the guarantor or endorser exceed $5,000;

(vi) the rate of interest may not exceed the greater of 15 percent a year or the rate specified as AS 45.45.010(b);

(vii) the taking, receiving, reserving, or charging of a rate of interest greater than is allowed by this subsection, when knowingly done, is considered a forfeiture of the entire interest which the note, bill, or other evidence of debt carries with it, or which has been agreed to be paid on the note, bill, or other evidence of debt; if a greater rate of interest has been paid the person by whom it has been paid or his legal representatives may recover back from the credit union taking or receiving it the entire amount of interest paid, but the action must be commenced within two years from the time the usurious collection was made;

Under the standard of subsection (e) of this section, the courts have utilized a flexible, ad hoc approach to determine, by an essentially factual inquiry, the extent to which an error in the financing statement would be misleading to one undertaking a reasonable search. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Where a financing statement and its underlying loan documents mistakenly identified a debtor as the predecessor partnership rather than the corporation, the financing statement was seriously misleading and the lender had no perfected security interest in the assets of the corporation. Dietrich-Post Co. v. Alaska Nat'l Bank, 638 F.2d 117 (9th Cir. 1981).

Article 5. Default.

Sec. 45.09.504. Secured party's right to dispose of collateral after default; effect of disposition.

NOTES TO DECISIONS

Noncompliance with subsection (c). In accord with 1st paragraph in original. See Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If a sale was deficient with respect to either notice or commercial reasonableness, then a burden is placed upon the secured party to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

The burden is on the secured party to prove by clear and convincing evidence the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

If the secured party fails to rebut the presumption that the fair market value of the collateral was at least equal to the amount of the outstanding debt, then the presumption leads to the conclusion that the entire debt is discharged. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Factors in determining value of collateral. — The local economic market at the time of sale is a recognized factor in determining the value of the collateral. Hoch v. Ellis, Sup. Ct. Op. No. 2346 (File No. 4475), 627 P.2d 1060 (1981).

Chapter 45. Trade Practices.

Article

1. Interest (§ 45.45.010)

Article 1. Interest.

Section

10. Legal rate of interest

Sec. 45.45.010. Legal rate of interest. (a) The rate of interest in the state is 10.5 percent a year and no more on money after it is due except as provided in (b) of this section.

(b) No interest may be charged by express agreement of the parties in a contract or loan commitment which is more than five percentage points above the annual rate charged member banks for advances by the 12th Federal Reserve District on the day on which the contract or loan commitment is made. A contract or loan commitment in which the principal amount exceeds $25,000 is exempt from the limitation of this subsection.

REPEALED

(c) Repealed by § 3 ch
(d) Repealed by § 2 ch
(e) Repealed by § 4 ch
(f) No bank, savings
company or mortgage co
ownership or profits abo
(g) Loan contracts ar
dwellings may be prepa
loans that require a pre
(h) If the limitations
inconsistent with the p
mum interest, service c
the other statute preva
1968; am § 2 ch 69 SL
ch 239 SLA 1970; am §§
1974; am § 1 ch 110 SL
SLA 1980; am §§ 1, 2

Cross references. — A
technology and power resou
AS 45.88.030(e).

Effect of amendments.
amendment, effective July
subsection (b), deleted "dat
1976" following "contract o
ment" and substituted "on
"that prevailed on the 25
month preceding the com
the calendar quarter dur
"which the contract" in th
and substituted "$25,000"

Cited in State v. Alas
Dev. Corp., Sup. Ct. Op.
Nos. 4121, 4122), 630 P.2

Chapter 50. C

Article 4. Unfair

Sec. 45.50.471. U

Similarity to federa
hibition in this sectio
methods of competiti
deceptive acts or practi

Sec. 45.10.120. Extent of service charge. (a) The service charge shall include all charges incident to investigating and making the retail installment contract or charge agreement and for the privilege of making the installment payments under the contract or agreement. No other fee, expense, or charge may be taken, received, reserved, or contracted for investigating and making the contract or agreement, or for the privilege of making the payments.

(b) A seller or holder of a retail installment contract may charge, receive and collect a service charge which shall not exceed the following rates multiplied by the number of months, including a fraction of a month in excess of 15 days as one month, elapsing between the date of the contract and the due date of the last installment,

(1) on so much of the unpaid balance as does not exceed $1,000, five-sixths of one per cent;

(2) if the unpaid balance exceeds $1,000, on so much of the unpaid balance as exceeds $1,000, two-thirds of one per cent;

(3) if the total service charge so computed is less than $12, but if the due date of the last installment of the contract is eight months or more after its effective date, $10.

(c) A seller or holder of a retail charge agreement, revolving charge agreement or other retail charge agreement may charge, receive and collect a service charge not to exceed the following rates computed on the outstanding balances from month to month,

(1) on so much of the outstanding balance as does not exceed $1,000, one and one-half per cent per month;

(2) if the outstanding balance is more than $1,000, one-twelfth of the annual rate permitted under AS 45.45.010(b) per month on the amount over $1,000 of the outstanding balance;

(3) if the service charge so computed is less than $1 for any month, $1;

(4) the service charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amount minus a differential of not more than $5 provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(§ 13 ch 141 SLA 1962; am § 1 ch 154 SLA 1966; am § 2 ch [illegible] 1980)

Cross reference. — As to revolving credit plans, see AS 06.05.208.

Effect of amendment. — The 1980 amendment substituted "one-twelfth of the annual rate permitted under AS 45.45.010(b)" for "one per cent" and "more than $1,000" in paragraph (c)(2) of subsection (c).

Sec. 45.10.130. Insurance. If the cost of insurance is included in the retail installment contract or retail charge agreement and a separate charge is made to the buyer for the insurance,

(1) the contract or agree
amount of the insurance,
vehicle, the contract must
under the terms of this con
liability," "public liability,
as applicable;

(2) the contract or agree
be procured by the buyer

(3) the amount include
premiums chargeable in
insurance by the insurer e
if the insurance is cancell
for unearned insurance
insurance, together with t
applicable to the insuran
installments of the ret
agreement, and the rem
premiums shall be refund
required if the amount is

(4) if the insurance is to
within 45 days after deliv
under the contract, delive
the address as specified i
procured, a copy of the p
of the insurance so procu

Sec. 45.10.140. Agree
retail installment contra
buyer agrees not to asse
against the seller or an a

Sec. 45.10.150. Nonw
of the buyer before or at t
installment, retail charge ag
agreement constitutes a
disclaimer or of any remedi
SLA 1962)

Sec. 45.10.160. Contr
SLA 1962. This chapter does
installment contract or
January 1, 1963. (§ 22 c

Sec. 45.10.170. Actio
may bring an action in
violation and prevent a vi

Sec. 45.10.180. Assu
enforcement of this cha

tiff to be just compensation for the property or the interest in it. (§ 13.20 ch 101 SLA 1962)

Cross reference. — See Civ. R. 72-(e)(3).

Where the state has adequate knowledge of separate interests, amounts should be specified for each. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

Sec. 09.55.440. Vesting of title and ..pensation. (a) Upon the filing of the declaration of taking and ..e deposit with the court of the amount of the estimated compensation stated in the declaration, title to the estate as specified in the declaration vests in the plaintiff, and that property is condemned and taken for the use of the plaintiff, and the right to just compensation for it vests in the persons entitled to it. The compensation shall be ascertained and awarded in the proceeding and established by judgment. The judgment shall include interest at the rate of six per cent per year on the amount finally awarded which exceeds the amount paid into court under the declaration of taking. The interest runs from the date title vests to the date of payment of the judgment.

(b) Upon motion of a party in interest and notice to all parties, the court may order that the money deposited or a part of it be paid immediately to the person or persons entitled to it for or on account of the just compensation to be awarded in the proceedings. If the compensation finally awarded exceeds the amount of money deposited, the deposit shall be offset against the award. If the compensation finally awarded is less than the amount of money deposited, the court shall enter judgment in favor of the plaintiff and against the proper parties for the amount of the excess. (§ 13.2[illegible] ch 101 SLA 1962)

Cross reference.—See Civ. R. 72-(e)(3).

Condemnor takes estate sought in declaration of taking. — The Alaska declaration of taking statutes are as effective as the federal statutes in effecting the vesting of title in the condemnor of whatever interest in the land it seeks to condem.. If the state undertakes to obtain title to real property in fee simple absolute by the filing of a declaration of taking that is the title which it obtains. 1960 Op. Att'y Gen., No. 15.

Alaska Const., art. I, § 18, necessitates that a property owner be compensated for delays incurred between the dates of the government's taking of property and making payment. If an award were paid immediately upon the taking of the land by the state no damages to the property owner would ensure. But where, due to the necessity of legal proceedings to ascertain fair market value of property, delays ensue, the property owner is entitled to an a[illegible] to reimburse him for the loss of use of the money during the period of such delay. To hold otherwise would constitute a taking of the property without just compensation. Therefore, it is well established that the owner of property is entitled to interest from the date of taking to the date of payment. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Authority, Sup. Ct. Op. No. 809 (File No. 1600), 498 P.2d 737 (1972).

This section provides for [illegible] on the amount awarded which exceeds the amount paid into court under the declaration of taking. Russian Orthodox Greek Catholic Church of North America v. Alaska State Housing Au-

thority, Sup. Ct. No. 1600), 498 P.

Interest can be the amount paid able for immediat owner or owners terests in the lan Greek Catholic America v. Alaska thority, Sup. Ct. No. 1600), 498 P.2

No interest whe draw funds is attr owner.—In situati ure to withdraw f the registry of th able to the dela owner, no interest on the portion of posited. Russian Catholic Church of Alaska State H Sup. Ct. Op. No. 8 498 P.2d 737 (197

A blanket esti covering several p tended by allocati not an effective ten any parcel. Russia Catholic Church of Alaska State Ho Sup. Ct. Op. No. 80 498 P.2d 737 (1972)

Multiple party in for which lump sum out segregation.— one party has an in and a lump sum is segregation as to mated to be just con various interests, impossible to receiv drawal of the funds.

Sec. 09.55.450. ing of the declara compensation, the which and the ter quired to surrende of entry shall no ning of the time f ration of taking. W of the award and sonable rental for plaintiff during suc

(b) The court n special assessment

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 750
Title An Act relating to the deregulation of interest rates
Requested by Labor, Commerce & Finance Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

III ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

DATE February 10, 1982 PREPARED BY

National Conference of State Legislatures

Office of State Federal Relations

444 North Capitol Street, N.W. 2nd Floor Washington, D.C. 20001 202/624-5400

President
Richard S. Hodes
Speaker Pro Tempore, Florida House of Representatives

Executive Director
Earl S. Mackey

September 22, 1980

The Honorable John J. LaFalce
2361 Rayburn House Office Building
Washington, DC 20515

Amendment # 3-4

Dear Representative LaFalce:

On September 23rd, your subcommittee will hold hearings on H.R.7735, which amends the Depository Institutions Deregulation and Monetary Control Act of 1980 to preempt state usury ceilings as applied to consumer finance transactions and state laws regarding access and transaction fees charged to open accounts. While you will hear from many consumer finance companies and small businesses on the impact of H.R.7735, you should be apprised of the position of the National Conference of State Legislatures. States will also be heavily impacted if H.R.7735 is enacted by Congress.

The National Conference of State Legislatures is strongly opposed to any federal legislative or executive action which would permanently or temporarily preempt state interest ceilings. As representatives of state legislators, we are acutely aware of the problems of citizens in our states in these times of inflation and high interest rates, but feel that states should have maximum flexibility in developing their economies. Good consumer finance legislation is as controversial at the state level as the federal level, and forcing legislatures to vote these matters again may prove disruptive because of the current economic situation. Many state legislatures are working to provide usury limits that are more in line with market realities. The ultimate result of this effort may be to provide a better climate for consumer-oriented businesses than federal preemption would provide.

We are particularly disturbed by two provisions in H.R.7735:

1. This bill does not have a sunset provision. Although states may override preemption of usury limits within three years of the enactment of H.R.7735, those states that are unable to adopt constitutional provisions or statutes overriding the preemption permanently lose their jurisdiction over a major portion of consumer finance affairs. This is a rather severe result when one considers that the current economic crisis may be only temporary. If the crisis is permanent, we would need much stronger measures to combat it than this bill would provide. Such measures would require the complete cooperation of state, local and federal governments rather than a preemption-oriented solution.

ALASKA CREDIT UNION LEAGUE

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VINCENT L. USERA
PRESIDENT

February 26, 1982

Senator Bob Mulcahy
Chairman, Senate Committee on
Labor & Commerce
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Mulcahy:

This letter is offered for the record in support of Section 7 of Senate Bill 750 presently before your committee for consideration. Section 7 of this bill would amend present state statutes concerning credit unions by entirely removing the existing usury ceiling imposed on credit unions (state chartered).

The Alaska Credit Union League enthusiastically supports this measure and congratulates the committee on its consideration of such progressive legislation.

Though there are, at present, no credit unions chartered by the State of Alaska, a very progressive state law enabling such charters was enacted in 1980. This statute originally specified a usury ceiling of 12%, similar to the then-extant Federal Credit Union Act. In 1981 the state statute was amended to impose a usury ceiling of 15% on credit union loans to members. The state law imposes no ceilings with respect to the rates that a credit union may pay its members on their savings.

Complete removal of rate ceilings, especially when confronted with the volatile economic climate of the 1980s, makes eminently good sense from several aspects.

One, since there are no ceilings on what can be paid, and competitive forces will drive the cost of funds to an institution to the prevailing market levels, the presence of a ceiling on loan rates does little more than impose a disincentive to lend. Thus, rather than provide a consumer protection as originally intended, the rate ceiling effectively limits borrowing. Any financial institution must achieve a spread between the cost of funds and the pricing of loans. This spread must be adequate to ensure, if not profitability, at very least that all costs are met. As market rates on savings approach the loan ceiling, this spread is reduced to the point where it becomes unreasonable to grant loans.

Two, we firmly believe that market pressures will ensure that the absence of rate ceilings is not subject to abuse. The institution that raises rates far beyond what other competitors in the marketplace charge will find itself out of that market. Indeed, unless all lenders were to raise rates to the same levels, widespread abuse would be virtually non-existent. Increasing consumer sophistication, as well, militates against widespread abuse in this area.

Three, under present law, federally chartered credit union may charge up to 21% on loans to members. All Alaskan credit unions are presently operating under a federal charter, yet none but those making a few high risk loans are charging a rate of 21%. Thus, despite there being available authority to charge higher rates, most loans are made at rates well within market parameters. Though it would be no abuse to charge up to 21%, there is still little use for the curb; the marketplace imposes its own limitations.

Traditionally, credit unions have made loans available to members at or below prevailing market rates. The very reason for the existence and popular growth of credit unions has been that rates on savings were higher than found at other lenders, and rates on loans were generally lower than others. There is little liklihood that credit unions will turn their backs on this history, whatever the upper limits of their lending authority might be.

In sum, Mr Chairman, the Alaska Credit Union League heartily supports this piece of legislation as a benefit to credit unions, and thereby a benefit to their members. We respectfully urge that this portion of the bill be given the most favorable consideration.

The Alaska Credit Union League is the trade association representing 27 of Alaska's credit unions and the more than 250,000 members of those institutions. The League is affiliated with the Credit Union National Association.

Thank you for the opportunity to comment.

Respectfully submitted,

ALASKA CREDIT UNION LEAGUE

BY: Vincent L. Usera

Vincent L. Usera
President

VLU/ps

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 26, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 750 Deregulation of
Interest Rates

The position of the Department of Commerce and Economic Development on the above-subject bill is technical in nature only and not intended to be a position for or against the existence of interest rate limitations. As this bill would effectively repeal all usury control, it will be necessary for the borrowers to seek for themselves the best interest rate.

Sections 1 and 2 of the bill, repeal interest limitations in the Alaska Small Loan Act and the Premium Finance Company Act. Examiners find that most of the violations of these two areas have been problems in interest and refund computations. This amendment, therefore, would have no effect on our regulatory activity for these two industries.

Section 6 further repeals other interest rate limitations of small loan companies and also repeals rate limitations of credit unions. Other cited sections noted in the bill do not fall within the regulatory provisions of our agency.

We will not oppose passage of the bill as we find no evidence that it will have a detrimental effect on financial institutions and it will allow lenders to make funds available in times of high cost of funds. It will, of course, have some effect on consumers. Funds for the borrowing consumer will be readily available but at higher rates. The marketplace competition will be the controlling factor should this bill pass.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

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THE MACNEIL-LEHRER REPORT

Usury Ceilings

In New York

ROBERT MacNEIL ..... Executive Editor

In Washington

JIM LEHRER ..... Associate Editor
Rep. JOHN LA FALCE ..... Democrat, New York
Rep. BILL PATMAN ..... Democrat, Texas
MEL KUSIN ..... National Home Furnishings Association
BARBARA REID ALEXANDER .... Maine Bureau of Consumer Credit Protection

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Reporter ..... JOE QUINLAN

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Usury Ceilings

ROBERT MacNEIL: Good evening. Several major banks lowered their prime lending rate half a point today to 19%, an interest rate expected to become the standard for business loans across the country. At the same time, the White House urged the Federal Reserve Board to ease its tight money policies slightly. Deputy Press Secretary Larry Speakes said the administration still supported the Fed's policy of monetary restraint; it merely wanted a rollback of recent actions which had increased restraint on the money supply. On Capitol Hill concern over tight money and the high interest rates is surfacing in another way: proposed legislation to do away with state usury laws, or legal limits on interest rates. Bankers, retailers and finance companies backed the effort, claiming that low interest levels are stifling credit. Removing the ceilings, they say, will cause more credit to flow. Consumer groups and some state officials say that argument is false, and oppose the legislation on the ground that it will legalize loan-sharking. Tonight, should Washington take the cap off state interest rates? Jim?

JIM LEHRER: Robin, usury is defined as the loaning of money at an unconscionable or exorbitant rate of interest. There are 44 states with various laws prohibiting its practice. But there's no uniformity to them, either in the types of loans they cover, or when the rate becomes unconscionable or exorbitant, and thus illegal. At one extreme is Arkansas which has a cap on bank consumer loans at 10%. At the other extreme is South Carolina, where the cap is 24%. The others have ceilings somewhere in between. Congressman John J. LaFalce, Democrat of New York, wants all ceilings, all caps, in all states eliminated, and he's the sponsor of legislation in the House that would do just that. Congressman, why should state interest rate ceilings be eliminated?

Rep. JOHN LA FALCE: Well, I think there are a number of reasons. First of all, I think that the economic forces that are at work determining the market interest rates are either national or international in scope, and bear virtually no relationship to state forces. Secondly, the state laws that are on the books now are really relics of ages long past. The usury rates were set at a time when we had interest rates of perhaps 2%, and you might have a usury law prohibiting interest being charged above 12%. But because of the present volatility of our interest rates, those usury laws have, in effect, prevented the availability of credit. So, if you live in a state with a restrictive usury law, you simply can't get credit. Your down payment for a car costing $7,000 would have to be $7,000. Your down payment for a home costing $100,000 would have to be $100,000. And so, really, what—

LEHRER: And that in fact is the case in states where they have usury laws?

Rep. LA FALCE: In fact that is the case in a great many states where they have such restrictive usury laws. In the state of New York, for example, it was impossible until 1980 to obtain a residential mortgage when the market rates were about 20%, and you had a restrictive rate of around 12%. The issue is not what the interest rate should be. The market will determine that. The issue is whether or not credit will be available to the consumer who wants to make a purchase.

LEHRER: Well, what if you take the laws off? Let's assume that your bill is enacted into law, signed by the President and the whole thing. Wouldn't that mean that interest rates would just skyrocket for retail—

Rep. LA FALCE: No, because we have a classic free market competition here in the United States. There are untold numbers of lending institutions. And I think that the free market would have its chance to work, and would work. Would there be a few number of

abuses? That could well be the case. There would be very, very few, however, in my judgment. There are abuses now that are going unprosecuted because of lack of proof, but the point is, the problem that *[audio lost]* of small businesses going out of business, drying up the real estate market prior to the time that the federal government did preempt the usury ceilings on residential mortgages. The good to be accomplished would offset whatever potential harm might exist by perhaps a thousandfold.

LEHRER: Congressman, let me ask you this. Let's say the people of Arkansas — they have 10% interest rates — that the people of Arkansas want a 10% interest rate, and if they want to pay the $7,000, or whatever it takes to live within that law, why should the federal government say, "Hey, no. You've got to charge more than that?"

Rep. LA FALCE: Well, I think we have a federal problem on our hands. I would preserve, however, the right of the individual states to exercise their sovereignty by permitting them a three-year time period to reinstate that usury law if that would be their desire. So they would have the right to effectively veto the federal preemption.

LEHRER: But three years later?

Rep. LA FALCE: No. Within that three-year period of time. They could do it immediately.

LEHRER: I see. Thank you. Robin?

MacNEIL: A number of states have recently raised or abolished their interest rate ceilings. One of them is Texas, and the experience has caused one congressman from Texas to oppose the LaFalce bill. He is freshman Democrat Bill Patman, also a member of the Banking Committee, the committee chaired for many years by his father, Wright Patman. Congressman, why do you oppose the bill?

Rep. BILL PATMAN: I think this is an important state right that should be maintained. We ought to let the states decide for themselves just what should be done about this particular issue. And I don't believe that the take-out provision is adequate, that Congressman LaFalce mentioned.

MacNEIL: What does that mean, the "take-out provision"?

Rep. PATMAN: Where a state could exempt itself from this particular lifting of the usury ceiling. Because it would have to do so before April the 1st of 1983, or in that area. We don't even meet in Texas in the legislature again until January of 1983, in regular session.

MacNEIL: What happened in the Texas experience recently, partially abolishing the interest rate ceiling, that has caused you such anxiety?

Rep. PATMAN: Well, I think it's regrettable that the Texas legislature did act to raise the interest rate ceiling, but that was its option, acting with what it assumed to be the will of the people behind it. That same legislature may in the future decide that it wants to lower that rate, and passage of this bill after the take-out provision is gone will not permit it to do so. I think it's important to realize that the market rate of interest rate — of interest — is not set for the small consumer loans. We in Texas have a super high rate, of up to 109%, and even beyond that, on loans of $100 and under. We're one of only five states in the entire United States that authorized such abuses of the consumer. And if we pass this bill of the Congressman's and we don't have some exemption of a state from that particular type of loan, then you'll have that same type of abuse prevalent throughout the United States.

MacNEIL: Give me an example of the kind of abuse you're talking about.

Rep. PATMAN: Well, a $100 loan for six months would be chargeable — cash loan — would have charges on it amounting to 109%. The lenders in Texas of those particular

loans actually flip them, or renew them every couple of months, and then charge a non-refundable acquisition charge that raises the effective yield, in some instances that we noticed when I was in the Texas Senate, to up to 149%.

MacNEIL: Mr. LaFalce says that his bill is necessary because credit has dried up in states where the usury laws keep the interest rate below a ceiling that is below current market rates. And so people just can't get credit.

Rep. PATMAN: That's a common argument of the loan companies and the finance companies. I've followed this issue for many of the years in which I served in the Texas Senate, and these finance companies will go from state to state now, and seek to jack up the rates. And then they'll go around to the other states that have not increased their rates, and say, "You're out of line." We kept those rates low in Texas, or at least lower than some of these other states, for at least 12 years. And all that time, these finance companies were promising that they would go out of business if we didn't suddenly increase their rates. They made huge profits. In fact, one loan company, we found by examining the records in Massachusetts, regarded Texas as its 11th most profitable state out of some 38 or so in which it operated, even though we kept our rates at what they called a low level.

MacNEIL: Well, do you argue, then, Congressman, that the interest rate ceilings are not preventing the availability of credit?

Rep. PATMAN: Yes. I think in general they could cause some difficulty in obtaining credit in some areas. But there doesn't seem to be a shortage of the availability of credit throughout the nation to call for an extreme measure of this type. I think that once we take off these limits that the states have imposed themselves, we'll never get them back down, and we'll have a large series of abuses, a long series of them, that will really result, I think, ultimately, in a public outcry against this type of thing.

MacNEIL: Well, thank you. Jim?

LEHRER: Among those pushing for federal elimination of state usury ceilings are small businesses which depend on consumer credit. This includes the retail furniture business, and people like Mel Kusin of Texarkana, Texas. Mr. Kusin owns three furniture stores, two in Texas, one next door in Arkansas. He's also on the board of the National Home Furnishings Association, his business's trade organization, and was to testify this week at hearings on the usury law issue — hearings that have now been postponed, you discovered once you got to Washington a while ago, right?

MEL KUSIN: Right.

LEHRER: Okay. Mr. Kusin, in your Texas stores, what interest rate do you charge now?

Mr. KUSIN: Presently we're charging 24%. That's the new limit allowed by the state of Texas under the new legislation.

LEHRER: I see. Now, what do you charge across the— across the street in Arkansas?

Mr. KUSIN: Well, our other store is 32 miles away in Hope, Arkansas. We charge 10%.

LEHRER: Well, now, what's the difference in terms of what people buy, and the success of these stores?

Mr. KUSIN: Well, there's an unbelievable difference, and it's getting more and more painful all the time. In the state of Arkansas, retail furniture prices are normally about 11% higher than those in surrounding states of Texas, and, I believe, Oklahoma.

LEHRER: So you're getting it anyhow? You just have to raise the price of the furniture? Is that it?

Mr. KUSIN: I'll explain to you. We pay— we are lucky to pay approximately prime bank interest in our area, which is about 20%. In Arkansas, with the 10% state limitation, the store has to make up the difference itself. Anybody in the furniture business in Arkansas today who deals in credit sales has to supplement the sale itself, or else raise the price on it.

LEHRER: But the people in Arkansas are still buying furniture, I guess, and doing all these other things. How does it work?

Mr. KUSIN: They're paying more money— more money for their furniture because of the interest differential. The furniture stores there — many of them — are having to decide whether to stay in business or not, because they are the ones supplementing that whole difference in what they have to pay for money, and what the state limit is. Now, our position is this on the money available for something like furniture or automobiles or that. We're in the business of providing our customers with furniture. We're not in the business of credit. We handle the credit more as a convenience, a necessary convenience. If a state could set the rate at which a business borrows money, then it would be fine to set the rate at which it loans the money. But we have, as businessmen, to go by a federal existing loan rate, which would be the bank prime rate. But yet, within states, we are limited by the state law. So unless a furniture store can supplement the difference, it just won't work. And this is why we feel that it should— the interest rate should follow the level of the market.

LEHRER: In other words, what you're saying is that if you could borrow the money yourself in Arkansas, say, for 8% or 9% or even 10%, then you wouldn't mind using— mind giving people credit at 10%.

Mr. KUSIN: Exactly.

LEHRER: I see. What would be the effect of Congressman LaFalce's bill —if it, in fact, was enacted into law — on your particular business — or the small businessman generally that deals in consumer credit?

Mr. KUSIN: Let's say in Arkansas we could then again go to the loaning agencies, which would be banks or large firms — national firms that sell such financing. They would take all of the so-called contracts that a furniture store or any other retailer has if they had the difference to work between. If the— if the new law were to be passed that would allow a floating-up on the interest to a market price, then we wouldn't— we would no longer be in the credit business in the furniture business. We would be selling furniture, as we should be.

LEHRER: I see. You do not share Congressman Patman's fear that this thing will be abused, and could lead to some serious abuses in terms of the amount of— the exorbitant rate of interest that could eventually be charged?

Mr. KUSIN: No, we don't think so at all. Our business, from a- - the furniture business itself is a very competitive business. The prices of furniture will be held down by competition. If the interest rate is allowed to seek its own level, that will also become competitive. But most important, the consumer who wants to buy furniture can buy it on credit. Today in states like Arkansas, when furniture dealers have to withdraw from the market because they can't support it anymore with those high interest rates, the consumer is the one who really suffers, either through high prices, or through the, really, the almost lack of availability within a market place of furniture.

LEHRER: I see. Thank you, Mr. Kusin. Robin?

MacNEIL: A number of consumer organizations, led by the Consumer Federation of America, oppose the usury legislation. Another witness who was in Washington to testify, is Barbara Reid Alexander, superintendent of the Maine Bureau of Consumer Credit Protection, a state agency. Ms. Alexander, why do you oppose these bills? I should say,

there is also a bill in the Senate, correct?

BARBARA R. ALEXANDER: There is. Many state regulators and people associated with the state agencies that control consumer credit around the country oppose these bills because our state laws are the product of a very delicate balancing between the decision as to what interest rate should be mandated, and what consumer protections should be garnered in return for high interest rates. Consumer protections are linked to high rates in most states. They certainly are in Maine. If Congress enacts these bills, we will find that many important consumer protections, that our state legislatures thought were crucial in the regulation of credit, will be destroyed.

MacNEIL: Like what?

Ms. ALEXANDER: Well, for the privilege of higher rates in many states, we regulate substantive contract terms, and limit late fees, attorneys' fees, closing costs, default charges. We require a rebate of interest when a consumer prepays a contract early. We prohibit prepayment penalties. We limit the amount that the creditor can increase a contract when the consumer has troubles and comes in to refinance that contract. All of those protections are gone when we enact HR-2501, which is sponsored by Congressman LaFalce.

MacNEIL: What do you say to a dealer like Mr. Kusin in the retail business, who said that if you don't allow the interest rates to rise to the market level that dealers are going to have to get it another way, simply by putting supplemental prices on their product?

Ms. ALEXANDER: It's interesting that we find ourselves talking about Arkansas in this program. They are the state that is used to push this bill — and has been used to push bills like this for some years, now. The state of Arkansas had a statewide referendum on their 10% usury ceiling, which is in their constitution. The people in that state went to vote, and overwhelmingly defeated an attempt to increase that 10% limitation. I am not going to defend the 10% limitation of Arkansas. That's Arkansas' problem.

MacNEIL: What is the limit in Maine?

Ms. ALEXANDER: Generally 18%, with higher rates allowed for smaller transactions.

MacNEIL: And what effect is that having on consumer credit — on the availability of consumer credit?

Ms. ALEXANDER: I think that most credit is available in Maine at the maximum rates right now, and I think the volume of credit is down, and I think it's because people will not pay those high rates. I think the credit availability argument is really a non-argument. People are not going out to buy cars right now because the rates are too high, and they don't want to buy a car at 18%, 19% and 20% interest rates. The credit in this country is growing nationally at a rate of 7% to 8%. That contrasts with the rate of increase for 1980 — all of 1980 — of only 1%.

MacNEIL: You mean, credit availability— credit is growing faster this year than it was last year?

Ms. ALEXANDER: That's correct, sir.

MacNEIL: Even with the high interest rates?

Ms. ALEXANDER: And that's because most all states have made changes in their interest rate ceilings. Seven to 10 states have totally deregulated interest rates, except for a criminal usury statute that prevent loan-sharking, bills and legislation which would also be totally obliterated by HR-2501. Every time we increase rates nationally 1% in this country, we're costing consumers $3 billion. That's money that doesn't go into economic growth

and development or capital expenditures to expand our economy. That's money that goes into retiring debt service, which is really not what I think Congress should be about at the present time.

MacNEIL: Well, thank you. Jim?

LEHRER: Congressman?

Rep. LA FALCE: Yes, let me make a number of points. First of all, I think that everyone here, and probably everyone in Washington, is against high interest rates, and we want to do all that we possibly can to bring those interest rates down. Secondly, I think there is true—

LEHRER: Yeah, but to her point. Her point, basically, is that it's high interest rates — period — that are causing people not to buy cars and furniture from Mr. Kusin, and all the usury laws don't have a thing in the world to do with it.

Rep. LA FALCE: Well, it's true that high interest rates are causing that, and I have been criticizing high interest rates and calling for actions to cope with high interest rates. But it is also true that regardless of the high interest rates we have right now, if the market interest rates are, say, double the usury ceiling, you're going to have a total closure of the window on credit. And that has happened historically, and that still is happening now for individuals who do believe that they can afford the going interest rates.

LEHRER: Do you agree with that, Congressman Patman?

Rep. PATMAN: No, I certainly don't. The market does not set the small loan rates. The small loan rates are set up to the maximum that the lender can charge. Now, I don't know what's going to happen when this happens — when we pass this bill, if it passes. Mel mentioned going up to 24%. Obviously he did that as soon as he had the opportunity.

LEHRER: What was it before it was— you said that it's now, in Texas law— 24% is what you're now allowed. What was it before the law?

Mr. KUSIN: Eighteen.

LEHRER: Eighteen. So you went up 6% overnight?

Mr. KUSIN: Yes. Well, we do financing through General Electric Credit Corporation and the banks and the— everybody in the state followed the law as it allowed. It eased the pinch, but not completely. Now, that's an interesting thing, because we still— when we sell our accounts receivable through financing companies, we still have to pay a discount. With that 24%—

LEHRER: Let me make sure we explain what that means. You— somebody walks into your furniture store, they buy furniture, you give them credit. You take that paper and then you sell it to a finance company. All right, now, what do you sell it to them? Now, if you charged the customer 24%, what do you sell it to the finance company for?

Mr. KUSIN: Today in Texas I believe the approximate discount that the store has to pay — the store has to pay — is about 4%.

Rep. LA FALCE: So that store is either going to take a loss or it's going to pass that difference on to the customer in some camouflaged way, rather than directly, rather than openly. Another point—

Rep. PATMAN: But the point is, though, that these loan companies always charge the maximum, whether it's 31¼%, as it is under the Uniform Consumer Credit Code in some states, or some— or a higher amount, often 45%. It's gotten grossly out of proportion

LEHRER: Ms. Alexander, let me ask you. If you— if the usury law in Maine suddenly went away tomorrow— it's now 18%, right?

Ms. ALEXANDER: Generally, yes.

LEHRER: What do you think, if the market were allowed to work its magic, where do you think it would go?

Ms. ALEXANDER: I don't know what it would do in Maine, but we know something about what's happening in some of the states that have deregulated. In the state of New York, interest rates increased dramatically. In the state of Arizona—

Rep. LA FALCE: Well, you know, I am from New York, and I know a little bit about that. And she says that interest rates increased dramatically. The fact of the matter is, the market interest rates were already considerably higher than the usury ceiling. So if the usury ceiling is 12, and the market interest rates are 18, and you're able under a new law to charge the market interest rates, of course there's going to be a dramatic interest— dramatic increase. But it wasn't above and beyond what the market was charging.

LEHRER: Well, what's the market in— Yeah, go ahead.

Ms. ALEXANDER: I wasn't characterizing the increase. You asked what happened. That is what happened.

LEHRER: Right.

Ms. ALEXANDER: In the state of Arizona, we find that used car loans are going in the range of 30% to 50%, that people who live near or in the Indian reservations out there, who do not— are not able to shop for credit because the credit availability is not there, are paying 50% interest rates to buy a used car because they have a captive market, and the used car dealers in the area have set a rate at extraordinarily high rates.

LEHRER: Make sure we understand, now. Arizona was a state that had a usury law, had a cap, removed it — deregulated — and that's what you're— what about that, Congressman?

Rep. LA FALCE: Well, first of all, she's complaining about a 30% interest rate, whereas the state of Maine, for small loans, has a 30% usury ceiling. I have no doubt that an individual could always point to a specific instance — a specific example — and say here is an example of abuse. But I can also point to 99% of the cases where I think the classic competition that exists within our free market would work, and I could also point out literally hundreds of thousands of small businesses that have failed, in large part due to restrictive usury laws that are on the books.

Ms. ALEXANDER: I don't know where the Congressman's getting those statistics. Ten thousand small businesses close every year, and it doesn't have anything to do with interest rates they're able to charge consumers. It has to do with rates that are imposed on them by banks so that they can operate. It's the prime rate of 19%, 20% and 21% we were talking about before. But let me get back to— the issue here is not whether or not I can sit here and defend any one state's scheme of things. The point is that the state of Maine has a scheme; it's very happy with that scheme. It's reviewed every year in our legislature. It forms a delicate balance between credit availability, which we want to have available, generally, and consumer protections. And if the legislature and the people in the state of Maine have decided that that approach which we have is the one for Maine, I question whether it's proper for Congress to step in and erase that balance without really understanding the impact of it.

Rep. LA FALCE: If I could address myself to that issue, first of all, a great many state

legislators in states that have the restrictive usury ceilings, have said, "We hope Congress will bail us out because this is a tough political issue. You can't sell it back home. You do the dirty work." Secondly, we do give the states the right to revoke the federal preemption. Third, the Congress has the power, and I think the obligation, to act to effectuate the interstate commerce laws. If this isn't interstate commerce, I don't know what is. In a great many instances, the Congress has already preempted usury ceilings. We've done it for business loans; we've done it for agricultural loans; we've done it for residential loans, etc. In preempting usury ceilings on those type of loans, and permitting credit, therefore, to flow to those type of loans, we have engaged in credit allocation, and we've denied that type of credit, therefore, to the consumer and to the small businesses.

LEHRER: Congressman Patman?

Rep. PATMAN: It's legal for the Congress to do this, but it is wrong. We should never have preempted the states' rights— the states' right to operate in these other areas, and I really believe that we're going to be getting in this— in legalizing loan-sharking throughout the United States by passing this bill. That will be—

LEHRER: How does it legalize loan-sharking?

Rep. PATMAN: Well, loan-sharking is the charging of a rate that is illegal. Right now, or at least when I left the legislature, loaning money over 18% in certain transactions was loan-sharking. Loaning money at 25%, in the other states, was loan-sharking. But we're going to be taking off the lid entirely, and nothing will be loan-sharking. We'll be like legalizing burglaries, and permitting them and licensing them.

LEHRER: But if you have the market rate up at 20%, how could that be loan-sharking? I mean if it's costing that much as a result of the economy, and the prime rate is at 20%—

Rep. PATMAN: Well, the amount that's charged fluctuates from state to state, perhaps. It's something that every state legislature can examine carefully. Sure, it's a tough issue. But the people ought to have a right to talk to folks on the local level about these matters.

LEHRER: We just have a few seconds. Speaking of the local level, back to you, Mr. Kusin. Do you think that the people in Arkansas do not have— should not have the right to do what they want to do in their state, right?

Mr. KUSIN: I believe they should certainly have the right, but the merchants from whom they buy the goods cannot operate under a system where they have to supplement by fully 10% what the interest is.

LEHRER: Thank you. Robin?

MacNEIL: Yes, that's the end of our time this evening. Thank you all for joining us in Washington. Good night, Jim.

LEHRER: Good night, Robin.

MacNEIL: That's all for tonight. We will be back tomorrow night. I'm Robert MacNeil. Good night.

Transcript produced by Journal Graphics, Inc., New York, N.Y.

WESTERN UNITED STATES

MAXIMUM FINANCE CHARGE RATES

For Retail Revolving Credit
as of July 1, 1981



18%

19.2%

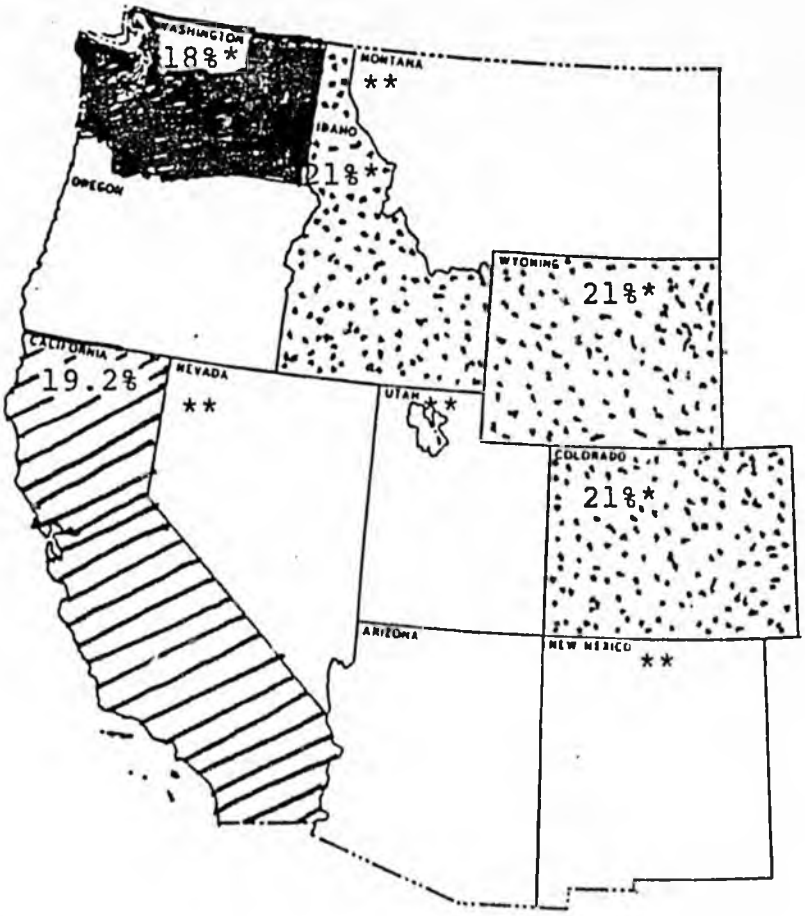
21%

No Statutorily Imposed Ceiling

* Raised in 1981

** Ceiling Removed in 1981





WARD Washington Office

MAY 15 1981

UPDATE

SPECIAL STATE EDITION

An UPDATE of State Governmental Legislation and Regulation

1100 Connecticut Avenue, N.W. Washington, D.C. (202) 862-1360

May 1, 1981 Vol. 4 No. 1

IN THIS ISSUE: Report on 1981 State Legislative Sessions . . State Regulatory Actions . . Credit Interest Rates . . Unemployment Compensation . . Appliances . . Energy . . Bankruptcy . . Taxes . . Plain Language . . Service Contracts

STORE CONTROLLER 213
ANCHORAGE, ALASKA

CREDIT

STATE INTEREST RATES IN 1981

There was a high degree of success in obtaining interest rate increases... State government affairs lobbied changes in 17 states...MW Credit Division projected this was worth an annual increase in revenues of approximately $20 million...Of MW's top 15 states, 12 were targeted for lobbying (Oregon has no limit; Illinois permits 21.6%; and Michigan, 20.4%)...Bills to increase revenue in one form or another were passed in seven...These included the low rate state of Minnesota from 12% to 16%, and obtaining credit deregulation in New York.

CREDIT INTEREST RATES FOR 1981

The deregulation breakthrough in New York State led to two other deregulation bills in Delaware and New Jersey which have already been signed into law...However, not all states are competing with each other for economic hospitality...Most are content to only consider rate bills that will offer minimum relief to retailers and other credit lenders...MW's major revenue states and low rate states continue as priority targets, with rate relief in Texas being foremost.

Thirty-two states now permit straight 18% or better...Of these, 15 permit a higher rate assessment on all or a substantial part of the account balances...Six of the 32 have no rate limit...This same group consisted of 22 states in 1980, with the additions being 10 of 17 successful bills lobbied.

As of this writing, no-limit bills are awaiting governors' signatures in Montana and Utah; Kansas extended its 21% rate for another year; Wyoming passed a 21% rate bill; Oklahoma has introduced a 24% rate; Colorado and North Carolina have 21% bills pending; Georgia's 21% rate is awaiting governor's signature; Missouri and Washington are considering 18%; Texas has a variable rate bill pending with a floor of 18% and 24% maximum; Illinois, Iowa, Ohio and Louisiana have introduced deregulation bills.

LEGISLATIVE ACTIVITY
FINANCE CHARGE RATES

11/10/81

STATE	PROPOSED RATES	INTRO-DUCED	PASSED HOUSE	PASSED SENATE	GOVERNOR SIGNED	NEW RATES IN EFFECT	COMMENTS
ALABAMA	21%	X	X	X	X	5/15/81	Sunset provision extended to 6/1/83
CALIFORNIA	19.2%	X	X	X	X	5/1/81	Corrected bill - Sunset provision to 10/1/82
COLORADO	21%	X	X	X	X	6/7/81	
CONNECTICUT	18%	X	X	X	X	7/1/81	
DELAWARE	Deregulation	X	X	X	X	6/1/81	
FLORIDA	21%	X					Dead
GEORGIA	21%	X	X	X	X	4/15/81	
HAWAII	21%	X		X			Dead
IDAHO	21%	X	X	X	X	7/1/81	
* ILLINOIS	Deregulation	X	X	X	X	9/26/81	
KANSAS	24%	X					
LOUISIANA	21%	X					House rejected: 53-49
MAINE	24%	X					Dead
MASS.	18%	X	X	X	X	10/7/81	Retail cards now included
MINNESOTA	18%	X	X				18% rate applies only to retailers with annual
							sales volume of $25 million or less
MISSOURI	18%	X	X	X	X	6/3/81	
MONTANA	Deregulation	X	X	X	X	4/6/81	Mandated Adj. Bal. Method 2-year Sunset Provision
NEVADA	Deregulation	X	X	X	X	6/14/81	
NEW JERSEY	Deregulation	X	X	X	X	3/31/81	
NEW MEXICO	Deregulation	X	X	X	X	7/1/81	2-year Sunset Provision
> * OHIO	Deregulation	X	X	X	X	11/10/81	Passed Senate. Sent enrolled to gov. Sunset 1/1/85
OKLAHOMA	21%	X	X	X	X	10/19/81	
WISCONSIN	Floating Rate	X					Hearing this week - bad bill
OREGON	Language clarification	X	X	X	X	8/22/81	
PENN.	Deregulation	X		X			Passed Senate: 26-20
RHODE I.	21%	X					Dead
TENNESSEE	21%	X		X			Dead
TEXAS	18% + tie to T. Bill Rate	X	X	X	X	5/6/81	
UTAH	Deregulation	X	X	X	X	5/12/81	
WASHINGTON	18%	X	X	X	X	5/8/81	
W. VIRGINIA	18%	X	X	X	X	4/10/81	Eliminates break Rate
WYOMING	21%	X	X	X	X	5/20/81	
MICHIGAN	Deregulation	X					
N. CAROLINA	21%	X					Senate defeated: 31-11

*Changes since last update

CONSUMER REPORTS - NOVEMBER 19

Usury: Going legitimate?

As interest-rate ceilings rise or disappear, consumers may lose some hard-won protections

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Borrowers and lenders both have important needs, described by Sir Francis Bacon as "the one, that the tooth of usury be grinded that it bite not too much; the other, that there be left open the means to invite moneyed men to lend for the continuing and quickening of trade."

The delicate balance of those two needs now seems to be shifting. Driven by eager lenders, many state legislators and members of Congress appear intent on wiping the concept of usury off the books. If they succeed, consumers will be doubly hurt: Borrowing costs, already extraordinarily high, could soar higher still; vital consumer protections, painfully won over recent years, could be eroded or lost altogether.

Over the last 50 years or so, the states have stitched together a complex patchwork of laws and regulations governing consumer credit. Until recently, one common thread has been the existence of a usury ceiling—a rate of interest, set by law, that a lender cannot exceed.

Within each state, lenders are subject to different usury ceilings depending on the kind of credit activity they engage in—auto installment sales, retail installment sales, revolving credit sales, bank loans, and finance company loans, for example. (The table opposite illustrates how state rate ceilings vary for two types of credit transactions.)

The usury ceiling tied to a particular kind of credit activity is linked—strongly in some states, less so in others—to the degree of consumer protection that creditors engaging in that activity must provide. In general, the higher the usury ceiling, the greater the protection.

For example, most states allow creditors to charge a higher Annual Percentage Rate (APR)* on small loans than on large loans, provided that borrowers also get more protection. The creditors can choose whether to charge higher rates and offer more protection, or to settle for lower ceilings that carry less protection.

Michigan lenders, for instance, can charge up to 31 percent on loans up to $500 (13 percent above $500). In return, such lenders must calculate the interest rate in a prescribed fashion; can lend no more than $3000; must refrain from certain advertising claims; and must not require "wage assignments," under which borrowers agree in advance that their pay will go directly to the lender if they default. Alternatively, lenders can abide by a 16.5 percent ceiling and ignore those protections.

In states that tie usury ceilings and consumer protections together, high-interest loans often carry controls on such provisions as permissible fees and charges, balloon payments, refinancing terms, and the method of calculating the interest rate.

Bumping the ceiling

As interest rates rose and stayed high, state lawmakers began hearing complaints from creditors that the rates they wanted to charge for consumer credit were bumping up against the usury ceilings. If the ceilings weren't raised (or, more to the lenders' liking, eliminated), the lenders claimed, they would have no choice but to curtail consumer credit.

There was a grain of truth to the claim; loans to consumers have been curtailed. During the 19 months from the end of 1979 to August 1981, the amount of outstanding consumer installment debt—total short-term loans (excluding mortgages)—grew from $312-billion to $321-billion—an annual increase of less than 2 percent. During the 1970's, by comparison, outstanding installment debt grew almost 12 percent annually.

The current credit slowdown can be blamed, in part, on a drop in demand, a natural result of high interest rates. But many lenders have restricted the *supply* of consumer credit. Many banks, for example, have become fussier about their loan customers. In Wisconsin, where an 18 percent APR is the limit on consumer loans, bankers are generally making loans primarily to existing customers.

Other banks use another technique. In March of last year, Bankers Trust of South Carolina tightened the statistical profile it uses to screen credit applicants, dropping the percentage of approvals from 76 percent to 70 percent.

But lenders who argue that they *must* curtail consumer credit to avoid losses protest too much. Banks that have reduced their level of consumer-credit activity have done so mainly because commercial lending is more profitable, not because they can't make money on consumer credit.

Complaints from retailers and credit-card issuers about low usury ceilings should be viewed with the same skeptical eye. In practice, retailers have been reluctant to raise their charges for revolving credit, even when allowed to, for fear of driving customers away. New York State furnishes an illuminating example of why credit-card issuers cannot be taken literally. When New York removed all restrictions on credit-card finance charges late in 1980, one would have assumed, from the card issuers' repeated claim that the old 18 percent limit was oppressive, that they would immediately hike their finance charges to a much higher level. In fact, most still charge 18 percent.

Instead of raising rates, credit-card issuers in many states are charging fees not in the APR calculation. Many now charge an annual fee of $10 to $20.

And an increasing number of card issuers are charging a transaction fee every time the card is used. Crocker Bank in California, for example, already levies a 12-cent fee. Other issuers are changing the terms even for users who have avoided finance charges by paying promptly. The approach varies. Several New Jersey banks have begun charging interest from the date of billing to the date of payment. Banks elsewhere are charging interest from the date a purchase is posted to the merchant's account. Tennessee, Alabama, and Missouri residents who hold a Visa or MasterCard from First Tennessee Bank in Memphis will have to pay a monthly "maintenance fee" between 50¢ and $1.50 if they pay off the outstanding balance when billed.

What's behind the drive

Creditors are pushing to do away with usury ceilings for several reasons:

- Creditors would like to eliminate any future threat that usury ceilings will interfere with credit activity. If ceilings are simply lifted to some intermediate level consistent with current market rates, creditors fear that they would have to return to state legislators, hat in hand, to ask for another increase if interest rates climb still higher. From the credi-

* The Annual Percentage Rate most accurately expresses the interest rate charged.

tors' viewpoint, that's uncertain and inefficient. Tomorrow's politicians may be less p[illegible] than today's, and relief in the form of a new law can take weeks or months to pass.

• Ceilings are an obstacle to the introduction and success of variable-rate loans, in which the interest rate charged moves up or down during the term of the loan in step with a prearranged index. Variable-rate loans shift the burden of rising interest rates from the lender to the borrower, so creditors are enthusiastic about the idea. But usury ceilings prevent loan rates from rising without limit.

• Banks—especially large banks—want to operate across state lines. Interstate consumer banking is now restricted to credit cards. If interstate banking is allowed at some point, it would be much easier if the crazy quilt of state usury ceilings didn't exist, since banks could charge what they wanted, anywhere.

Timing is also significant. The current economic climate lends some support to the creditors' case for eliminating ceilings; if interest rates fall significantly, the lawmakers' interest in granting relief to creditors will fall, too.

So, besides lobbying in the states, creditors are pressing their case in Congress. A bill pending in both the House and Senate would wipe out all state usury ceilings on consumer credit, though a state would have three years in which to override sections of the law by passing its own limits. The bill has little chance of approval on its own in the House, but its sponsors—Representative John J. LaFalce (D., N.Y.) and Senator Richard G. Lugar (R., Ind.)—contemplate attaching it to another banking bill that has garnered broad support.

What the states have done

In 1980, as the prime rate moved past 20 percent, 42 states lifted or eliminated their usury ceilings; this year some of them went even further. Other states took action in 1981 for the first time. Ten states now permit banks that issue credit cards to charge any interest rate. Thirteen states, to all intent, no longer limit the interest rate that banks charge on consumer loans.

Several states, including Delaware, Nevada, and New Mexico, have completely wiped out all interest-rate restrictions for all classes of lenders. Most states, however, have elected to lift rather than abolish their ceilings, and to apply the higher rates only to certain classes of creditors.

Many states are still grappling with the usury question. New York lawmakers, for example, are likely to face a proposal to raise or abolish the state's criminal usury ceiling of 25 percent. (Consumer-credit interest rates aren't specifically regulated in New York but charging any rate 25 percent is a criminal act.) Alaska's legislature will also be making a decision whether to remove interest-rate ceilings on all types of retail credit. South Carolina is likely to rewrite its consumer-credit laws extensively next year, with a good chance that some consumer-credit ceilings will be raised. And Arkansas voters will decide in November of next year, in the fourth such referendum since 1968, whether the state's constitutional usury ceiling of 10 percent should be lifted to 17 percent.

"The pressure is on to raise ceilings in those states that have not done so," says Robert E. Gibson, president of the National Foundation for Consumer Credit, sponsor of more than 200 nonprofit credit counseling centers around the country. "I think those states will act quickly."

The arguments of creditors for higher ceilings are shaky, since usury ceilings, even admittedly low ones, don't necessarily dry up consumer credit. Moreover, states that have eliminated rate ceilings, or raised them significantly, have attracted lenders engaging in borderline practices.

The case of Arkansas

When lenders complain that low ceilings force them to restrict consumer credit, they invariably bring up Arkansas as an example. With a 10 percent usury ceiling written into the state constitution, Arkansas is hardly a lender's paradise—that's true. But it needs a closer look.

First, most banks and thrift institutions (savings-and-loan associations, primarily) in Arkansas are permitted by Federal law to lend at one percentage point above the Federal discount rate—giving them the right (in September, as this is written) to charge a 15 percent APR on loans,

How state ceilings vary

The table below illustrates state-to-state differences in the maximum Annual Percentage Rate (APR) for two kinds of credit transactions—bank personal loans and retail installment purchases. The first column shows the highest legal APR for a hypothetical personal loan of $2000, repaid over 24 months, taken from a bank. The second column shows the highest legal APR for a hypothetical purchase of $500, financed for 12 months, from a retail store. The table was compiled with the help of Financial Publishing Co., a supplier of consumer credit information to the financial trade. All terms were current as of late September.

State	Bank personal loan	Retail installment purchase
Alabama	21.35%	26.60%
Alaska	19	19
Arizona	No limit	No limit
Arkansas	15 [1]	10
California	22.76	19.72
Colorado	22.95	24.03
Connecticut	No limit	21
Delaware	No limit	No limit
District of Columbia	15 [1]	No limit
Florida	20.05	21.46
Georgia	16.43	23.19
Hawaii	34.13	28.80
Idaho	28.43	36
Illinois	No limit	No limit
Indiana	27.15	36
Iowa	21	21
Kansas	17.73	20.43
Kentucky	18.02	No limit
Louisiana	34.84	24
Maine	24.67	30
Maryland	23.35	22
Massachusetts	23	21.46
Michigan	15 [1]	21.43
Minnesota	18.5	No limit
Mississippi	21.57	24
Missouri	21.78	26.62
Montana	No limit	No limit
Nebraska	19%	18%
Nevada	No limit	No limit
New Hampshire	No limit	No limit
New Jersey [2]	30	30
New Mexico [2]	45	45
New York [2]	25	25
North Carolina	22.05 [3]	24
North Dakota	No limit	No limit
Ohio	22.42	21.80
Oklahoma	24.67	30
Oregon	No limit	No limit
Pennsylvania	15	24
Rhode Island	21	21
South Carolina	24.76	34.91
South Dakota	18	21.46
Tennessee	15 [1]	17.96
Texas	24 [4]	24 [4]
Utah [2]	45	45
Vermont	20.53	18
Virginia	No limit	24
Washington	20.05 [5]	22.05 [6]
West Virginia	18	18
Wisconsin	14.4	18
Wyoming	22.95	33.03

[1] *Federally insured banks, thrifts, and credit unions can charge an APR of 15% (1% above the "Federal discount rate"), although the state ceiling is lower.*

[2] *No specific regulation of consumer-credit interest rates, but charging any APR above amount indicated constitutes criminal usury.*

[3] *Rate on 6-month Treasury bills (16.05%, as of September 14) plus 6%, or 16%, whichever is more.*

[4] *Twice the rate on 6-month Treasury bills, but no less than 18% or more than 24%.*

[5] *Rate on 6-month Treasury bills plus 4%.*

[6] *Rate on 6-month Treasury bills plus 6%.*

including purchases by credit card.

Second, Arkansas retailers have raised their prices to offset the effect of the 10 percent ceiling. If an Arkansas and a West Virginia retailer each sell a $1000 video recorder with 24-month financing, the West Virginia retailer will probably charge an 18 percent APR, the highest allowed in that state. The Arkansas retailer, limited to 10 percent, is likely to raise the price of the recorder by about $82. So both retailers receive about the same amount each month.

Third, most credit-card issuers located outside Arkansas can levy charges controlled by the state where they are based, not by the state where the holder lives. Thus a card issuer based in New York could charge Arkansas residents 20 percent or even more. Even Arkansas-based card issuers have continued to do business, making up for the 15 percent limit by raising the fee charged to merchants.

Beyond those specifics, the general picture in Arkansas differs little from other states. A 1981 study by the Credit Research Center of Purdue University analyzed the effects of the 10 percent ceiling on credit use and availability, comparing credit patterns in Little Rock with those in similar cities in Illinois, Louisiana, and Wisconsin. The study concluded that, "overall, the data . . . do *not* support the hypothesis that credit is less readily available in Arkansas than in other credit markets . . . they are particularly inconsistent with the hypothesis that low-income borrowers receive less credit in Arkansas." The central reason, the researchers found, is that Arkansans have shifted their credit use away from banks and thrifts, where credit has become more difficult to obtain, to "point of sale" sources—retailers, bank cards, and, in some cases, pawn shops.

The Arkansas experience was confirmed to some degree in West Virginia where, until last spring, the APR ceiling for consumer loans from banks was 12 percent. Yet an officer of the West Virginia Bankers Association affirmed that many banks had active loan programs before the APR went to 18 percent.

The dark side of the coin

In states where usury ceilings have been removed, abuses have appeared—particularly if the state did not beef up its consumer-protection provisions.

Arizona, for example, removed its ceilings for most kinds of loans in April of 1980. Never known as a state with vigorous consumer protections ("We're laissez-faire, otherwise known as anything goes," says state banking official Roy Schuetze, his tone ironic), Arizona has become a haven for "carpetbagger" mortgage brokers from California.

These brokers are arranging second trust deeds (which are like second mortgages) secured by the borrower's home. The second trusts carry interest rates of 30 to 40 percent or more; the finance charges include excessive loan-origination fees that usually amount to 15 to 20 percent of the loan. The loans are generally written so that payments are for interest only; a balloon payment for the entire loan comes due in as little as seven months. If a borrower can't make the balloon payment, the usual practice is for the broker to "flip" the loan—refinance the whole thing—and include a new origination fee. Borrowers who may want to pay off the loan early must pay a heavy prepayment penalty—a requirement that many states flatly forbid.

Elsewhere, some small loan companies in Texas are charging 200 percent on certain loans. In Oklahoma, creditors can charge more than 170 percent on one kind of small loan. By any standard, such rates and practices are unconscionable.

What should be done?

Removing usury ceilings can easily lead to the kind of serious abuses now current in Arizona. Not only would interest rates be free to soar, but, in the opinion of some state consumer-protection officials, it might encourage wage assignments and other such unsavory loan practices. What's more, it's unnecessary. Where economic conditions clearly restrict lenders' ability to make loans at a reasonable profit, the remedy is to raise ceilings, not abolish them. Wiping them out without stengthening existing consumer protections is doubly objectionable.

The Interagency Task Force on Thrift Institutions, a team of Federal banking officials assigned to study the future of thrifts, last year concluded that eliminating "*restrictive* [emphasis ours] usury limits would be in the public interest." But the task force warned: ". . . it is important that unwary borrowers be protected from unscrupulous lenders. This is a major reason that usury laws have persisted—to protect the consumer when disclosure requirements are not a sufficient safeguard."

Reconciling the needs of borrowers and lenders is entirely practicable. Maine, for example, allows most creditors to charge 30 percent on loans up to $540, but less for loans above that amount. That's more generous than many other states allow. But an additional provision stipulates that if a loan with an APR of more than 18 percent has a balance remaining after 37 months, the interest rate must then drop to 8 percent, even if the loan is refinanced. Why? "To prevent consumers from getting locked into high-interest, long-term loans," says Barbara Alexander, superintendent of the Maine Bureau of Consumer Protection. Without such a provision, the borrowers might end up being "flipped," as happens in Arizona.

The table on the previous page suggests that creditors may be far better off than their piteous cries would lead lawmakers to believe.

The dangers of pre-emption

Federal pre-emption of state usury ceilings, as proposed in the Lugar-LaFalce bill, would abolish even those state ceilings that are above current market rates, remove the ability of each state to set ceilings tailored to its residents, expose consumers to increased risk of default and bankruptcy because of high credit costs, and wipe out a host of strong state consumer-protection laws.

The bill, as drafted, would apparently do away with state controls on maximum finance charges, prepayment penalties, the way that interest rates are calculated, late fees, and balloon payments. The bill's supporters deny the measure would have such a sweeping effect, claiming that various credit provisions would be exempted from Federal pre-emption. The language of the bill, however, is very broad. "Their intent is to make the language look like something other than what it is," charges Maine's Barbara Alexander.

The bill is widely opposed by consumer groups. Another opponent is the American Conference of Uniform Consumer Credit Code States, a group of 11 states that have adopted all or part of the Uniform Consumer Credit Code (UCCC). The UCCC's framework of suggested rate ceilings and consumer protections, while balancing the needs of both consumers and lenders, tends to tip in favor of lenders. Even so, Kathleen Goodpasture Smith, a South Carolina state consumer-affairs official, speaking for the conference, told Congress in July that the bill would wipe out most borrower protections in UCCC states.

"Federal pre-emption of the UCCC would be disastrous for consumers and would not be the quick fix for creditors that some may believe," she cautioned. "State rate and charge limitations are so completely intertwined with consumer-protection provisions that the two concepts cannot be separated. . . . with higher rate ceilings, more consumer-protection provisions are necessary."

CU agrees. In their rush to accommodate creditors, many Federal lawmakers seem to be overlooking the basic consumer protections often provided by the same consumer-credit laws that govern usury ceilings. If state ceilings are abolished, as they would be under the Lugar-LaFalce bill, is it likely that the states will take positive action to reinstate those protections? Or are the people's representatives prepared to let the tooth of usury bite too much?

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The table on the previous page suggests that creditors may be far better off than their piteous cries would lead lawmakers to believe.

The dangers of pre-emption

Federal pre-emption of state usury ceilings, as proposed in the Lugar-LaFalce bill, would abolish even those state ceilings that are above current market rates, remove the ability of each state to set ceilings tailored to its residents, expose consumers to increased risk of default and bankruptcy because of high credit costs, and wipe out a host of strong state consumer-protection laws.

The bill, as drafted, would apparently do away with state controls on maximum finance charges, prepayment penalties, the way that interest rates are calculated, late fees, and balloon payments. The bill's supporters deny the measure would have such a sweeping effect, claiming that various credit provisions would be exempted from Federal pre-emption. The language of the bill, however, is very broad. "Their intent is to make the language look like something other than what it is," charges Maine's Barbara Alexander.

The bill is widely opposed by consumer groups. Another opponent is the American Conference of Uniform Consumer Credit Code States, a group of 11 states that have adopted all or part of the Uniform Consumer Credit Code (UCCC). The UCCC's framework of suggested rate ceilings and consumer protections, while balancing the needs of both consumers and lenders, tends to tip in favor of lenders. Even so, Kathleen Goodpasture Smith, a South Carolina state consumer-affairs official, speaking for the conference, told Congress in July that the bill would wipe out most borrower protections in UCCC states.

"Federal pre-emption of the UCCC would be disastrous for consumers and would not be the quick fix for creditors that some may believe," she cautioned. "State rate and charge limitations are so completely intertwined with consumer-protection provisions that the two concepts cannot be separated. . . . with higher rate ceilings, more consumer-protection provisions are necessary."

CU agrees. In their rush to accommodate creditors, many Federal lawmakers seem to be overlooking the basic consumer protections often provided by the same consumer-credit laws that govern usury ceilings. If state ceilings are abolished, as they would be under the Lugar-LaFalce bill, is it likely that the states will take positive action to reinstate those protections? Or are the people's representatives prepared to let the tooth of usury bite too much?

Move to Ban Usury Ceilings Starts Fight Over Federal Role, Gouging

By Eileen Alt Powell
Staff Reporter of The Wall Street Journal

WASHINGTON—Consumer groups call it the "Loan Shark Revitalization Act." Bankers and retail merchants say it's credit deregulation.

At issue is legislation in Congress to eliminate state interest-rate limits on consumer loans. Despite opposition from consumer groups, supporters of the legislation are optimistic the measure can be enacted.

All but about a dozen states have consumer usury ceilings, ranging from 10% a year in Arkansas to 36% annually on small retail-installment loans in Indiana and Idaho. The laws have evolved in a piecemeal fashion since colonial times, and they vary not only by state but also by the size and type of loan and the lending institutions involved.

The laws started attracting attention about 1980, when market interest rates surpassed some state lending limits. To keep credit flowing, many states raised their interest ceilings, and some abolished their limits. Meanwhile, lenders began pushing for federal legislation to end all state ceilings.

Arizona's Experience

Banks, finance companies and other financial institutions argue that some state ceilings are still so low that they can't cover lending costs. One result, they say, is that consumer credit dries up. In Pennsylvania, where there is a 15% ceiling on credit-card interest charges, Philadelphia National Corp., a bank holding company, has applied to move its operations to neighboring Delaware. And First Pennsylvania Corp., a Philadelphia institution, recently challenged the credit-card ceiling in court. The suit was settled last month with a tentative agreement that would require First Pennsylvania to roll back its rate on credit-card purchases to 15% from 19.8% but would allow it to charge 19.8% interest on credit-card cash advances.

Consumer groups contend that interest ceilings are needed to protect borrowers from excessive credit costs. They point to what has happened in states such as Arizona, which in April 1980 removed most of its usury limits.

Used-car dealers there who used to charge about 21% annual interest now charge about 32%, says Chuck Pyle, an attorney with Southern Arizona Legal Aid in Tucson. He says his agency recently handled a case involving a woman who bought a used car under a contract calling for 50.98% annual interest.

The Reagan administration backs federal preemption of interest rates even though it favors increased government powers for the states philosophically. "Usury ceilings only distort financial markets and credit flows and don't reduce the cost of credit in the economy," Treasury Secretary Donald Regan told the Senate Banking Committee.

The debate is focusing on bills introduced by Democratic Rep. John LaFalce of New York and Republican Sen. Richard Lugar of Indiana. Both bills would eliminate state interest-rate limits on credit extended for personal, family or household use. In addition, states wouldn't be allowed to prohibit lenders from charging borrowers certain fees, such as a fee for obtaining a credit card.

But the states would retain some authority. The bills say other state consumer-protection provisions, such as disclosure requirements and criminal loan-sharking statutes, would be left intact. And, under both bills, states would get three years to override the federal preemption, thus allowing reinstatement of ceilings.

The federal preemption is needed because "we are no longer a series of little colonies, each independent of the other," Rep. LaFalce says. "We are dealing with regional, national and world markets." He sees little merit in trying to substitute a federal ceiling. The markets, if unfettered, will produce competitive lending rates, he argues.

"We are no longer a series of little colonies, each independent of the other," says Rep. John LaFalce, who favors eliminating state interest-rate ceilings.

The Second Step

Messrs. LaFalce and Lugar see their proposals as the next logical step in a credit deregulation process that began with the Monetary Control Act. That law, enacted in March 1980, nullified state ceilings on home mortgages in the states that had them. For three years, it also overrode state limits on business and agricultural loans of $25,000 or more.

It also provided an alternate lending limit—set at one percentage point above the Federal Reserve's discount rate, currently at 12%—for federally insured financial institutions. States were given three years to override the Monetary Control Act interest-rate provisions. So far only 11 states have done so in whole or in part.

Backers of the interest-ceiling legislation are optimistic despite the hurdles that remain in Congress. Efforts to get the LaFalce bill moving toward the House floor were slowed in October when the House Banking consumer affairs subcommittee voted to table the proposal. But proponents in both houses of Congress believe the legislation could be enacted if approved in the Senate as part of a controversial omnibus banking bill introduced by Banking Committee Chairman Jake Garn, the Utah Republican.

April Deadline

Still, Sen. Garn's recent decision to delay consideration of the banking bill until after the Christmas holiday recess worries some supporters of the interest-ceiling provision. They figure that for political reasons the bill must pass by April. Federal preemption of usury ceilings, says a Senate aide, "is such an emotional issue" that Congress probably won't deal with it too close to next fall's elections.

The American Bankers Association supports the legislation. Sam Baptista, an ABA lobbyist, argues that for many financial institutions the legislation is "a question of equity." The federal government, primarily at the urging of large banks and over the objections of many small banks and thrift institutions, has begun deregulating the interest rates that financial institutions can pay on deposits. "In fairness, it must deregulate the asset (loan) side, too," he says.

Asked if declining market interest rates won't defuse the issue, Mr. Baptista responds, "Who's to say they won't go back up again?" He adds that even the rate decline "won't help in states like Arkansas, Pennsylvania and Michigan," where he says usury limits are too low to be reasonable.

Consumer Groups Angry

Consumer groups see things differently. "This legislation will eliminate state usury ceilings designed to protect the highest-risk and most-vulnerable group of borrowers," charges the Consumer Federation of America, a coalition of consumer and labor groups. Federal elimination of the rate limits, it says, will cost Americans billions of dollars in additional finance charges, precipitate personal bankruptcies and allow creditors to impose extra fees that will make shopping for credit "difficult, if not impossible."

The consumer groups argue that the issue of interest ceilings should be left to the states. Attorney Ellen Broadman of the Consumers Union, a nonprofit consumer education organization that publishes Consumer Reports magazine, says that more than 40 states acted in 1980 to raise or abolish outdated interest-rate limits. This year more states have revised or are reviewing their laws, some for the second time. "The states, in other words, have moved to respond to changing economic conditions," she says. "There's no need for unfounded federal paternalism."

The Federal Reserve Board also opposes federal legislation. Fed member Nancy Teeters told Congress that while the board is against rate ceilings, it should be each state's responsibility to correct the problem

STATES WITH RATES OVER 18%

1. Kentucky
2. New York (D) (S) 6-30-83
3. Arizona (D)
4. New Hampshire
5. Oregon (D)
6. Alabama (S) Extended to June 1983
7. California (S) 10-1-82
8. Kansas (S) 7-1-82
9. Mississippi (S) 6-30-82
10. Nebraska
11. South Carolina (S) 7-30-82
12. South Dakota (S) 7-1-83
13. Delaware (D)
14. Georgia
15. Idaho
16. Montana (D) (S) 7-1-83
17. New Jersey (D)
18. New Mexico (D) (S) 7-1-83
19. Texas
20. Utah (D)
21. Wyoming
22. Oklahoma
23. Michigan
24. Illinois (D)
25. Nevada (D)
26. Colorado
27. Ohio (D) (S) 1-1-85

D = Deregulation
S = Sunset and date of expiration

1981 States Recent Activity On Rate Increases

1. Pennsylvania (D) (passed Senate) (held over to September)
2. Minnesota (18%) (for retailers with annual volume under 25 million)
3. Connecticut (18%) (passed and signed by the Governor)
4. Michigan (D) (Introduced)
5. Washington (18%) Passed and signed
6. Wisconsin (Floating Rate Introduced)

SB

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MMF'S/December 21, 1981

Talked today by telephone with Jim McLaughlin, a representative of the American Bankers Association who is the expert on Bank Mutual Funds. His number is 202-467-5778.

He stated that he is not aware of any financial institution offering MMF's, despite the fact it is allowed by law in Washington State, and by interpretive ruling in New York State.

He further says the federal laws which describe the allowable (and prohibitive) securities activities of banks are the Banking Act of 1933 (Glass-Steagle), and the Investment Company Act of 1940. He says the prohibition on MF's in banks is applicable to all national banks and all state-chartered, Fed member banks. Consequently, all state-chartered banks in Alaska would be eligible because they are not Fed members.

He cited the following laws as particularly important: G-S: sections 20,21,and 32; 12USC24 para Seventh, sections 77,377,378.

In short, Alaskan state-chartered banks would be able to participate provided they followed the rules as delineated in the two federal acts. He also noted that the Securities Subcommittee of one of the Banking Committees will be holding hearings on these in early February. He is sending information.

A contact with the ABA who specializes in Glass-Steagle is Bob Bevan 202-467-4206

Volcker Opposes Banks' Offering Money Funds

Fed Chief Also Has Qualms On Bank Power for S&Ls But Wants Looser Laws

By a WALL STREET JOURNAL *Staff Reporter*

WASHINGTON — The chairman of the Federal Reserve Board said many banking laws need to be loosened, but he opposes at least for now some proposals backed by the Reagan administration, including one that would let banks offer money market funds.

Paul Volcker also voiced reservations about granting banking powers to savings and loan associations. The Fed says that idea raises "knotty" problems with the fundamental U.S. philosophy of having a diverse field of financial institutions.

At a Senate Banking Committee hearing, Mr. Volcker sounded a note of restraint to Congress as it takes up far-reaching legislation designed to restructure powers of financial institutions. Mr. Volcker said the issues raised are complex and doubly difficult in this time of high interest rates.

S&L Mergers Supported

He said the Fed supports broader powers for federal regulators to deal with troubled S&Ls, including mergers with healthier S&Ls and, as a last resort, with commercial banks. He also said the board supports federal action that would bar assumptions of low-interest home mortgages.

But he said the Fed opposes a move by Congress to strike down state interest rate ceilings on commercial loans, unless there is "a clear national interest at stake." Otherwise, he said it's a decision that should be left to individual states.

The Fed chief also said the central bank strongly opposes a provision in the Senate legislation that would allow nationally chartered banks to boost the limit on the amount of money they lend to a single borrower. The bill would raise the ceiling to 25% from 10% of a bank's capital and surplus funds. He said the Fed wants banks to spread their loan risk over several borrowers, but conceded an exception might be made for small banks. For them, he suggested lifting the limit to 15%.

White House View

The Fed's opposition to banks running money market funds, as well as its reservations about giving banking power to S&Ls, comes after Treasury Secretary Donald Regan urged Congress last week to give the institutions those powers. The administration has recommended beefing up competition among financial institutions, and is eager for Congress to throw out several [illegible] the White House says are outdated.

Mr. Volcker said the Fed opposes money-market funds for banks and S&Ls because it thinks current interest rates would impose higher costs on the institutions and "bring still heavier pressure on the earnings" of those banks and S&Ls that are being hurt by long-term low interest loans. He suggested it might be better to wait until after interest rates come down before considering the issue.

In the meantime, he said, banks should be given broader powers for offering investment management services. Although the Fed didn't propose it, Mr. Volcker said that if Congress allows banks to set up investment companies, they should be created as bank holding subsidiaries, barred from charging sales commissions and also from using the bank's name.

Mr. Volcker said the Fed supports letting banks underwrite municipal revenue bonds. Mr. Volcker also suggested banks be permitted to offer travel and data processing services and to sell commercial paper.

The Fed's reservations about giving banking powers to S&Ls stem partly from a concern that the thrift's might abandon the housing business they were designed to support, Mr. Volcker said. He said some S&L's might simply convert to commercial banks, under the provisions in the Senate legislation. Instead of giving S&Ls such sweeping banking powers, he suggested they be allowed to provide insurance and trust services for individuals, as well as being given limited powers to offer commercial loans to small businesses. He urged that steps be taken "within a broad framework of a concept of (S&L's) as community, family-oriented institutions."

Mutual Funds Set For New York Banks With State Charters

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—The state banking superintendent, Muriel Siebert, said state-chartered banks and trust companies can organize open-end investment funds or mutual funds through subsidiaries.

The ruling is significant because it outlines ways banks can operate mutual funds without violating the Glass-Steagall Act, the federal law that prevents commercial banks from doing many brokerage activities, such as operating a mutual fund. It is limited, however, because it covers only 56 banks and trust companies with assets totaling $16.7 billion operating in New York that don't have federal charters and excludes the state's banking giants, such as Citicorp, Chase Manhattan Corp. and Manufacturers Hanover Corp. Citicorp's assets alone are $115 billion.

Still, the ruling was sufficient to raise the ire of the Investment Company Institute, a Washington D.C.-based trade group. Its officials view the New York ruling as a weapon the country's big banks—which have loudly been seeking to operate money funds to compete with the likes of Merrill Lynch, Pierce, Fenner & Smith Inc.—might use to convince Congress to end Glass-Steagall prohibition.

"I'm not saying this is some sort of conspiracy, but clearly the larger money center banks are interested in overturning Glass-Steagall. My guess is that if they could cause enough confusion on the state level, Congress may reconsider," said William Tartikoff, counsel for the institute. "In our opinion the law isn't unclear. It's very clear."

The banking commissioner's ruling came in response to an application from a trust company, which wasn't identified, to operate a mutual fund. To prevent such an operation from violating the Glass-Steagall act, the state superintendent said banks and trust companies must adhere to certain restrictions.

Among the restrictions: limits on how much of the fund's securities could be bought for the bank's customers; the bank and its subsidiary can't advertise or offer sales literature on the fund to the public; the fund must have a separate address from the bank; bank officers and directors can't work for the fund.

New York State BANKING DEPARTMENT

NEWS RELEASE

For Release:
Friday, A.M.
September 25, 1981

Muriel Siebert • Superintendent • Two World Trade Center • New York, N.Y. 10047

CONTACT
Kenneth A. Mills
Public Information Officer
212-488-2248(Office)
212-626-3212(Home)

NEW YORK STATE SUPERINTENDENT OF BANKS MURIEL SIEBERT DETERMINES THAT NON-FED-MEMBER STATE-CHARTERED BANKS AND TRUST COMPANIES MAY SPONSOR, ORGANIZE AND ADVISE OPEN-END INVESTMENT FUNDS

Muriel Siebert, New York State Superintendent of Banks, announced today that a New-York-State-chartered bank or trust company, which is not a member bank of the Federal Reserve System, could sponsor, organize and advise an open-end investment fund.

The Banking Department reached this conclusion in response to a proposal by a New-York-State-chartered trust company to set up an open-end investment fund through a separate subsidiary. The fund would be registered as an investment company under the Investment Company Act of 1940 and the subsidiary would be registered as an investment adviser under the Investment Advisers Act of 1940.

The Banking Department concluded that it would be permissible under the New York Banking Law for the subsidiary of a bank or trust company to sponsor and organize the fund and, subject to approval by the shareholders of the fund, to advise the fund. The bank or trust company would agree to observe certain restrictions. These include:

Prohibition on directors, officers or employees of the bank or its subsidiary working for the fund, and on major shareholders of the bank or its subsidiary having similar controlling positions with the fund.

more

Certain limitations on the purchase of the fund's securities for the accounts of the bank's customers.

Provision that:

1) a majority of the fund's directors will not be "interested persons" within the meaning of the Investment Company Act of 1940;

2) the fund have separate addresses from the bank and the subsidiary;

3) the bank and the subsidiary not advertise or offer sales literature on the fund to the public.

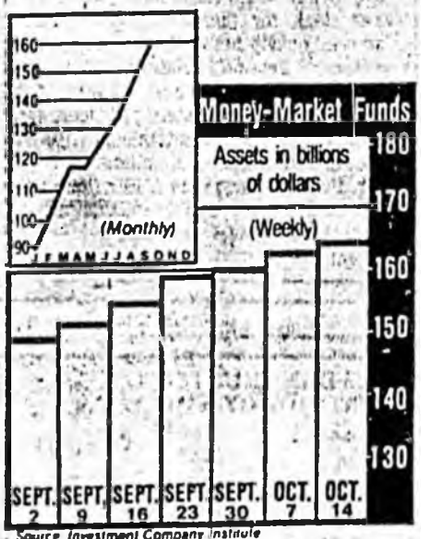
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Money Fund Assets Kept on Climbing During Past Week

By a WALL STREET JOURNAL Staff Reporter

NEW YORK—Money market fund assets kept climbing in the week ended Wednesday, indicating that investors are getting the money for tax-exempt "all savers" certificates from other sources.

Assets of the 81 "general purpose" funds geared to individual investors rose $520 million, to $50.52 billion, for the week, according to the Investment Company Institute, a Washington-based mutual fund trade group. That exceeds last week's asset growth of $464 million in the genera. purpose funds.



Source: Investment Company Institute

The 28 funds geared to institutional investors, however, declined $342 million in assets to $28.84 billion, in sharp contrast to last week's $1.4 billion climb. The institute blamed the drop on higher short-term interest rates.

Over all, assets of the nation's 146 funds rose $1.33 billion, to $164.55 billion, the trade group said. Last week, the funds grew $2.5 billion.

Many analysts had predicted that at least some significant portion of the billions of dollars flowing into the new all savers certificates would come from money funds. Since the beginning of the year, investors have turned to money funds in record numbers for their high yields and liquidity.

But so far, those expectations haven't come true. Fund managers say there has been little or no drop in assets at any point since the all saver's program began two weeks ago. "We're doing as well as we ever have," said James Benham, chairman of the Capital Preservation Funds of Palo Alto, Calif.

The money funds continued to outpace other investment tools designed for individual investors, even though their own yields dropped slightly. The average seven-day yield for money funds declined to 15.6% from 15.75%, according to William E. Donoghue's Money Fund Report of Holliston, Mass. The average 30-day yield also dipped, to 15.98% from 16.33%. Both are still higher than the 13.75% that banks and thrift institutions can pay on six-month money market certificates.

The decline in assets of the funds geared to institutions stemmed from higher interest rates. Institutions can move money overnight to take quick advantage of a changing rate situation. Yields of money funds don't rise as quickly as interest rates in general, so big investors have been switching to investments such as certificates of deposit and commercial paper, which aren't within the financial reach of most individuals.

The Donoghue report confirmed the money funds' increase in assets, stating that they rose $1.1 billion, to $163.7 billion, and

"The fact is, the fraud artist knows the system, strikes early and hard"

and I support it, that Mastercard is a bank product—or, more accurately, a financial institution's product; the board will forgo short-term card growth for long-term marketing advantages.

"We can doubtlessly pick up a couple million cardholders but I don't want to be the president of Mastercard when major retailers become the largest 'Mastercard issuer.' "

Sears' clout. "Speaking of retailers and competition, don't look beyond Sears," Hogg related. "It was interesting that the day we announced our Money Manager Account, Sears also announced its intention to form a money market fund as a major strategic direction.

"When you talk about Sears, the numbers are astounding. Imagine if it diverted 10% of its advertising budget to help launch this major new strategic direction.

"Sears is the second largest advertiser in the U.S. Do you know what 10% of its advertising budget is? Just over $60 million! Can you imagine the impact of those numbers on the financial services market?

"The question is, however, whether the Mastercard membership at large shares these concerns. Do you really care whether we are a 'pure' bank card or whether Channel Lumber markets a Mastercard?"

Powerful foes. "I worry about competitors that feel their dominant market holds being loosened, and try to make a case that we are being too aggressive," Hogg declared.

"And I am *not* talking about Visa.

"Mastercard and Visa have *both*

Banks may get their own money market funds

They're still referred to as the national card associations, but it's obvious that Visa and Mastercard have moved far beyond their original functions as licensors and and operators of the two national credit card systems. First came debit cards, then travelers checks. The latest offering from the two associations is money market funds.

Visa was the first to announce its intent to offer a money market product, but Mastercard beat its West Coast rival to the punch by announcing its plan early in September. That was two weeks ahead of Visa's official announcement at a press conference during the ABA National Bank Card Convention.

New Tools. Despite this one-upsmanship, the two plans are really designed more as tools to help banks compete against other money market mutual funds rather than as new weapons in the traditional Mastercard/Visa battle.

Neither plan, at press time, had been officially presented to the Securities and Exchange Commission. So neither organization could go into too many details. Yet, sufficient information was provided to show that the two programs are quite different from each other. A description of each follows.

Mastercard plan. The Mastercard people reached an agreement with Fidelity Management Group, the Boston-based investment management and discount brokerage firm, to create the Mastercard Money Manager Account. Essentially, the plan calls for Mastercard to provide the link between customers of participating Mastercard member banks and a new money market fund being established and operated by Fidelity.

The core of the plan is the linkage of a customer's checking/NOW account with the Fidelity money market fund. Funds in the checking account above a certain amount (set by the bank) are swept on a daily basis into the money market fund. Conversely, when the checking account falls below a certain level, funds are drawn out of the money fund to make up the difference. The linkage used is Mastercard's INET electronic settlement system.

Customers do not deal directly with the money fund, the transfers are made by the bank acting as agent for the customer. Fidelity will manage the fund.

Optional accounts. Beyond this basic arrangement, the bank could also arrange for the customer's checking account to be linked to a discount brokerage account which in turn could be linked to a Fidelity margin account. Again, the linkage used would be Mastercard's INET system.

Additional flexibility allows banks to attach their own package of investment accounts (CDs, retail repos, All-Savers Certificates, etc.) to the overall money market/brokerage/checking account.

Access to this multi-faceted account may be by check, by the Mastercard II (debit) card, or by telephone transfer. Mastercard officials acknowledge that their new plan does not fully solve the problem of disintermediation of deposits from banks to money market funds. They expect part of the money sent to the new Fidelity fund to be reinvested in participating banks' CDs, but not all of it.

However, Mastercard officials believe the new plan allows banks to remain in a pivotal position as suppliers of financial services, rather than operating simply as backroom processors.

Visa plan. Rather than turning to an outside investment firm to provide access to a money market fund, Visa U.S.A. is proposing to set up its own money fund. However, Visa will be advised by Alliance Capital Management Corp., a subsidiary of Donaldson, Lufkin, and Jenrette.

Pooling. The Visa fund is designed to invest primarily in certificates of deposit of participating member banks. The CDs purchased will reflect the amounts of investment in the fund by customers of each institution. Smaller banks will participate through a pooling arrangement with larger, correspondent members.

Other features of the Visa plan:

- The yield will be tied to the daily open market rate on 90-day Treasury bills;
- The fund will carry an indemnification feature so customers cannot suffer a credit loss;
- State Street Bank & Trust, Boston, will serve as custodian and transfer agent.

BASE is link. In operation, the Visa plan would work much like the Mastercard plan. Funds in a transaction account over a certain amount will be swept automatically into the fund.

Visa's electronic BASE system will provide the link. Banks will have the flexibility to set the terms and pricing for their customers, and may combine the fund with other financial services.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 751
Title An Act relating to Money Market Mutual Funds
Requested by Labor and Commerce Date 2/10/82

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	Ø					
200 TRAVEL	Ø					
300 CONTRACTUAL	Ø					
400 COMMODITIES	Ø					
500 EQUIPMENT	Ø					
600 LAND & STRUCTURES	Ø					
700 GRANTS,CLAIMS,ETC.	Ø					
TOTAL	Ø					

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø					
FEDERAL FUNDS	Ø					
OTHER (Specify Source)	Ø					

POSITIONS

FULL TIME	Ø					
PART TIME	Ø					
TEMPORARY	Ø					

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

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans & Corp.
PHONE 465-2521

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

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

March 1, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 751 an Act Providing for Money Market Mutual Fund Accounts

You have asked for the position of the Department of Commerce and Economic Development on the above subject bill. It is the position of the department not to oppose Senate Bill 751. The previous Director of the Division of Banking, Securities, Small Loans and Corporations was one of the prime movers of this idea nationally. This bill sets in place a vehicle by which State chartered financial institutions could establish a special uninsured account as a money market mutual fund.

The purpose of the bill is to provide a means by which State chartered financial institutions could compete with the money market mutual funds being offered in Alaska. It would, of course, be a management decision by the financial institutions whether to offer this account or not. Surveys done in 1980 and 1981 of the state banks have indicated little or no interest at this time in these accounts.

It is our finding that this form of account is presently prohibited by Federal law. If and when the Federal law should change, Alaska would have in place a vehicle that would allow the State-chartered financial institutions to offer these accounts.

Therefore, the Department of Commerce and Economic Development has a favorable position on this bill based on the attempt to set in place a vehicle to provide financial institutions a means by which to compete in financial services.

Sincerely,

E. W. Ebech

Edward W. Ebech
Deputy Commissioner

EWE/krb 5/5

involving extraordinary circumstances requiring immediate action, the department may take action without notice and public hearing, but upon application to rescind the action taken, the department shall promptly hold a hearing on the application.

(c) Hearings required or authorized under this title are not subject to AS 44.62.330 — 44.62.630 of the Administrative Procedure Act, except as required by AS 44.62.560 and 44.62.570.

(d) The department shall adopt regulations, consistent with the provisions of this title, establishing procedures for hearings held under this section. The Administrative Procedure Act (AS 44.62) applies to all regulations adopted or authorized under this title.

(e) For the purpose of hearings, investigations or proceedings under this title, and except as otherwise provided in this title, the department or an officer designated by the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of books, papers, correspondence, memoranda, agreements, or other documents or records which the department considers relevant or material to the inquiry. (§ 42 ch 169 SLA 1978)

As to facts requiring hearing under former AS 06.05.010 and Administrative Procedure Act, see 1960 Op. Att'y Gen., No. 7.

Sec. 06.01.040. Examination policy. It shall be the policy of the department to conduct, whenever reasonably possible, joint examinations with the Federal Deposit Insurance Corporation of those institutions subject to this title whose accounts are insured through that corporation. (§ 42 ch 169 SLA 1978)

Sec. 06.01.050. Definitions. As used in this chapter, unless the context otherwise requires,

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

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

(3) "financial institution" means an institution subject to the regulation of the department under this title. (§ 42 ch 169 SLA 1978)

Chapter 05. Alaska Banking Code.

Article

1. Powers of the Department of Commerce (§§ 06.05.005 — 06.05.085)
2. Banking Practices (§§ 06.05.090 — 06.05.280)
3. Organization and Corporate Functions of Banks (§§ 06.05.300 — 06.05.463)
4. Liquidation, Dissolution and Reorganization (§§ 06.05.465 — 06.05.475)
5. Prohibited Practices and Sanctions (§§ 06.05.480 — 06.05.525)
6. General Provisions (§§ 06.05.530 — 06.05.545)

Effect of amendment. — The 1978 amendment, in the second sentence, substituted "conviction of a corporation for violation of this chapter" for "violation by a corporation" and increased the maximum fine from $5,000 to $20,000.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.525. Injunction. If a state bank fails to comply with the provisions of this chapter, or the regulations of the department, or is found by the department to be in an unsafe or unsound condition the result of which will cause substantial injury to the bank or to its depositors, creditors or stockholders, the superior court may, upon the suit of the department, issue an injunction restraining the violation and may issue an order prohibiting the transaction of all or any part of the bank's business until the circumstances upon which the suit is based no longer exist. (§ 3.510 ch 129 SLA 1951; am § 9 ch 63 SLA 1969)

Article 6. General Provisions.

Section		Section	
530.	Effect on existing banks	540.	General definitions
535.	Construction with subsequent legislation	545.	Short title

Sec. 06.05.530. Effect on existing banks. The charters of state banks existing on March 26, 1951, continue in full force and effect. All state banks and, to the extent applicable, all banks shall thereafter operate in accordance with this chapter. Any state bank, by filing an application for an amendment of its charter or for a merger, consolidation or sale of all, or substantially all, of its assets or the assets of any department of the bank under this chapter and its charter is thereafter subject to this chapter. (§ 1.104 ch 129 SLA 1951)

Sec. 06.05.535. Construction with subsequent legislation. No part of this chapter shall be considered to be impliedly repealed by subsequent legislation not specifically repealing it if that construction can be avoided. (§ 1.106 B ch 129 SLA 1951)

Effect of Business Corporation Act. — This chapter is in no way amended by the Alaska Business Corporation Act (AS 10.05). 1959 Op. Atty. Gen., No. 17.

On formation of banking corporation. — A banking corporation may lawfully be formed under the Alaska Business Corporation Act (AS 10.05). It is equally certain that a banking corporation may be formed under this chapter, since it has not been repealed in whole or in part by the Alaska Business Corporation Act. 1959 Op. Atty. Gen., No. 17.

Sec. 06.05.540. General definitions. As used in this chapter unless the context otherwise requires

(1) "action" in the sense of a judicial proceeding includes any proceeding in which rights are determined;

(2) "bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction;

(3) "banking" means the negotiation for and the discounting of promissory notes, drafts, bills of exchange and other evidences of indebtedness; receiving deposits, selling and buying exchange, coin, and bullion, and lending money on personal, real and other security, and other kindred financial operations;

(4) "branch bank" includes a branch bank, branch office, branch agency, additional office, or any branch place of business located in the state, at which deposits are received, checks are paid, or money is lent;

(5) "commissioner" means the commissioner of commerce and economic development or his designee;

(6) "community" means a city, town, unincorporated village, or, in absence of any one of the foregoing, a trade area;

(7) "court" means a court of competent jurisdiction;

(8) "department" means the Department of Commerce and Economic Development;

(9) "domestic bank holding company" means a domestic corporation that is organized under AS 10.05 and that has control over a bank or another domestic bank holding company through one of the following:

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per cent or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the department determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management of policies of the bank or company.

(10) "executive officer" when referring to a bank, means the president, vice president, treasurer, cashier, comptroller and secretary, or any person who performs the duties appropriate to those offices or any person designated in the bylaws as an executive officer;

(11) "fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

(12) "good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

(13) "item" means any instrument for the payment of money negotiable or nonnegotiable but does not include money;

(14) "officer" when referring to a bank means any person designated as an officer in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller, or other person who performs the duties appropriate to those offices;

(15) "reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

(16) "state bank" means any bank chartered by this state;

(17) "undivided profits" means the accumulated, undistributed net profit of a bank, including any residue after

(A) provision for payment of taxes and expenses operations,

(B) transfers to reserves allocated to a particular asset or class of assets,

(C) losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated for it,

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign. (§§ 1.102, 1.103 ch 129 SLA 1951; § 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 7 ch 56 SLA 1971; am § 19 ch 218 SLA 1976; am §§ 39, 40, 43 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (5) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (8).

The 1978 amendment added "or his designee" to the end of paragraph (5), rewrote paragraph (9), and added paragraphs (17) and (18).

Editor's notes. — Section 8 ch. 56, SLA 1971, provides: "Any branch or limited banking facility operating under a charter from the State of Alaska on January 1, 1971, is a duly chartered branch."

Section 55, ch. 169, SLA 1978, contains a severability clause.

Applicability of Alaska Banking Code to building and loan associations. — See American Bldg. & Loan Ass'n, Inc. v. State, Sup. Ct. Op. No. 112 (File No. 149), 376 P. (2d) 370.

Commissioner subject to provisions of Administrative Procedure Act. — The Administrative Procedure Act (AS 44.62) provides that the commissioner shall be subject to its provisions. 1960 Op. Atty. Gen., No. 7.

Sec. 06.05.545. Short title. This chapter may be cited as the Alaska Banking Code. (§ 1.101 ch 129 SLA 1951)

Chapter 10. Model Foreign Bank Loan Act.

Section
10. Exemption of foreign banks from laws and taxation
20. Authorized activities
30. Filing statement
35. [Transferred]
40. Definitions
50. Short title

SB

752

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

February 26, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Senate Bill 752 an Act Relating to Savings Associations

You have asked for a position from the Department of Commerce and Economic Development on Senate Bill 752. We are generally in favor of this bill as it clears up some questions under the Savings and Loan Act, i.e., qualifying shares of directors and out-of-state loan participations.

The department is opposed, however, to Section 7 of the bill as we feel it is not needed. It is not clear as to why a savings and loan would wish to be saddled with a federal investment list. The department could publish a list of acceptable investments which can include any investments authorized by the Federal section quoted in the bill. This list can be updated as rapidly as necessary and could allow for more control and yet be flexible enough to meet the needs of the industry.

If you have any furtherquestions concerning our position on Senate Bill 752, you may wish to contact Mr. Kirkpatrick, Director of the Division of Banking, Securities and Corporations, direct at 465-2521.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/krb 5/4

> a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

4. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

from: The Model Savings Association Act

meeting of stockholders shall determine any question unless this Act specifically provides otherwise.

SECTION 13. ACCESS TO BOOKS AND RECORDS; COMMUNICATION WITH MEMBERS OR STOCKHOLDERS

Sec. 157

(a) **Exclusiveness of Access.** Every member or stockholder shall have the right to inspect such books and records of an association as pertain to his loan, savings account, or the determination of his voting rights. Otherwise, the right of inspection and examination of the books and records shall be limited (1) to the Commissioner or his duly authorized representatives as provided in this Act, (2) to persons duly authorized to act for the association, and (3) to any federal or State instrumentality or agency authorized to inspect or examine the books and records of an insured association. The books and records pertaining to the accounts, loans and voting rights of savers, borrowers, members and stockholders shall be kept confidential by the association, its directors, officers and employees, and by the Commissioner, his examiners and representatives, except where disclosure is expressly or impliedly authorized by such person, or where the disclosure shall be compelled pursuant to applicable law or by a court of competent jurisdiction, and no member, stockholder or any other person shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors, or to the extent that may be authorized and provided for in the bylaws of the association.

(b) **Communication with Members or Stockholders.** In the event, however, that any member, members, stockholder or stockholders desire to communicate with other members or stockholders of the association with reference to any question pending or to be presented for consideration at a meeting of the members or stockholders the association shall furnish upon request a statement of the approximate number of members or stockholders of the association at the time of such request, and an estimate of the cost of forwarding such communication. The requesting member, members, stockholder or stockholders shall then submit the communication, together with a sworn statement that the proposed communication is not for any reason other than the business welfare of the association, to the Commissioner who, after examination of the facts finds it to be appropriate, truthful and in the best interests of the association and its members or stockholders shall execute a certificate setting out such facts and such findings, forward the certificate together with the communication to the association, and direct that the communication be prepared and mailed by the association to the members or stockholders upon the payment to it by those making the request of the expenses of such preparation and mailing. If the Commissioner finds such proposed communication to be inappropriate, untruthful, or contrary to the best interests of the association and its members or stockholders, he shall have the discretion to deny or make other disposition of the request to communicate which he deems proper and he shall execute a certificate setting out such findings and deliver it to the party or parties making the request together with his order denying or making other disposition of the request.

from: The Model Savings Association Act

(c) Applicability of Section to Federal Associations. Insofar as the provisions of this section are not inconsistent with federal law, such provisions shall apply to federal associations whose home offices are located in this State, and to the members or stockholders thereof, except that the communication and statement provided for in subsection (b) shall be tendered to the Federal Home Loan Bank Board, Washington, D. C., in the case of a federal association and forwarded only upon that Board's certificate and direction.

SECTION 14. FINANCIAL STATEMENT. Every association shall prepare and publish annually in the month following the annual closing of its books in a newspaper of general circulation in the county in which the home office of such association is located, and shall deliver to each member or stockholder upon application therefor, a statement of its financial condition in the form prescribed or approved by the Commissioner.

SECTION 15. DIRECTORS

(a) Association under Direction of Board of Directors. The busine of the association shall be directed by a board of directors of not less than five (5) nor more than fifteen (15) adult individuals elected by ballot from among the members or stockholders by a plurality of the votes of the members present or voting by proxy. If authorized by vote of the members or stockholders, the directors may elect all directors. At all times at least two-thirds of the directors shall be bona fide residents of this State.

(b) Qualifications Required of Directors. In order to qualify as a director: a member of a mutual association must hold individually, or jointly with his spouse, a savings account, the unencumbered withdrawal value of which is at least $1,000; a stockholder of a capital stock association must own individually, or jointly with his spouse, capital stock in the association with a net, unencumbered stated value of at least $1,000. Except with the written consent of the Commissioner, no member or stockholder shall be eligible for election or shall serve as a director or officer of an association who has been convicted of a criminal offense involving dishonesty or a breach of trust. A director shall automatically cease to be a director when he ceases to be a member, or when he is adjudicated a bankrupt or is convicted of a criminal offense as herein provided, or when the net equity above loans of all savings accounts in the association held by him or minimum stock ownership requirement specified above aggregates less than the minimum required to be eligible for election as a director, but no action of the board of directors shall be invalidated through the participation of such director in such action; provided, that if a director becomes ineligible under the terms of this subsection by reason of the exercise by the association of the right of redemption of savings accounts provided for in Section 38, he shall remain validly in office until the expiration of his term or until he otherwise becomes ineligible, resigns, or is removed, whichever may occur first.

Sec 3

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
DIVISION OF BANKING, SECURITIES, SMALL LOANS & CORPORATIONS

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2521

November 18, 1981

Mr. Eddie Turner, President
Peninsula Savings and Loan
Association
Blazy Mall - Sterling Highway
Pouch 1000
Soldotna, Alaska 99669

Dear Mr. Turner:

In reference to Ralph E. Duerre's letter of October 7, 1981 to James M. Kelly, Administrative Assistant to Senator Pat Rodey, there are a couple of points that the Division of Banking wishes to discuss.

Regards nationwide lending, the first item addressed by Mr. Duerre in his letter, the division intends to utilize the "wild-card" statute, AS 06.01.020, to promulgate a regulation which will allow state-chartered associations to participate in conventional loans or pools of conventional loans secured by a mortgage on a one-to-four family residence where the mortgaged property is located outside the state. The contemplated regulation will not provide for direct loan packaging. This instance seems to be a classic case where the application of AS 06.01.020 would bring about the desired result, and thereby eliminate the necessity of seeking statutory change through the legislature.

out-of-state participation

Sec 4 & Sec 6

Regards AS 06.30.610(9), the seventh point addressed in Mr. Duerre's letter, this division is in the process of preparing a list of other investments. We would appreciate your input as to what investments you think should be placed on the list.

The division would prefer to place on the list that which Mr. Duerre suggested as a new subsection (9) of AS 06.30.610. Thus;

expanded investments

> "Assets which qualify as liquid assets as defined in Section 523.10(g), Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which

§ 561.37 Audit period.

The "audit period" of an insured institution means the twelve month period (or other period in the case of a change in audit period) covered by the annual audit contracted to satisfy § 563.17-1.

[41 FR 35821, Aug. 24, 1976]

§ 561.38 Consumer credit.

Credit extended to a natural person for personal, family, or household purposes, including loans secured by liens on real estate and chattel liens secured by mobile homes. *Provided*, the association relies substantially upon other factors, such as the general credit standing of the borrower, guaranties, or security other than the real estate or mobile home, as the primary security for the loan. Appropriate evidence to demonstrate justification for such reliance should be retained in an association's files. Among the types of credit included within this term are consumer loans; educational loans; unsecured loans for real property alteration, repair or improvement, or for the equipping of real property; loans in the nature of overdraft protection; and credit extended in connection with credit cards.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

[45 FR 76110, Nov. 18, 1980]

§ 561.39 Open-end consumer credit.

"Open-end credit" as defined in Regulation Z (12 CFR 226.2(x)).

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

[45 FR 76110, Nov. 18, 1980]

§ 561.40 Closed-end consumer credit.

Consumer credit other than open-end consumer credit.

(Sec. 5(c)(2)(B), 48 Stat. 132, as amended by Title IV, § 401, Public Law 96-221, 94 Stat. 151; § 5(d), 48 Stat. 132, as amended (12 U.S.C. 1464(d)); §§ 402, 403, 48 Stat. 1256, 1257, as amended (12 U.S.C. 1725, 1726); Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR 1943–48 Comp., p. 1071)

[45 FR 76110, Nov. 18, 1980]

PART 562—APPLICATION FOR INSURANCE OF ACCOUNTS

Sec.
562.1 General provisions.
562.2 Application form.
562.3 Filing and amendment of application.
562.4 Processing of application.
562.5 [Reserved]
562.6 Exceptions to the foregoing procedures.
562.7 Action by Corporation.
562.8 Costs of examination, audit, and appraisal.
562.9 Effective date of insurance; initial premium payment, issuance of certificate of insurance.
562.10 Prohibition against advertising prospective insurance.

AUTHORITY: Secs. 402, 403, 48 Stat. 1256, 1257, as amended; 12 U.S.C. 1725, 1726, Reorg. Plan No. 3 of 1947; 3 CFR, 1943–1948 Comp.

SOURCE: 32 FR 8125, June 7, 1967, unless otherwise noted.

§ 562.1 General provisions.

All requests by interested persons for advice or instructions with respect to any matter arising under this part shall be addressed to the Corporation's Supervisory Agent. As used in this part, the term "Supervisory Agent" means the President of the Federal home loan bank of the district in which the insured institution is to be located or any other officer or employee of such bank designated by the Board as agent of the Corporation as provided by § 501.10 of the general regulations of the Federal Home Loan Bank Board (§ 501.10 of this chapter).

§ 562.2 Application form.

An application for insurance of accounts shall be submitted in form prescribed by the Corporation and shall be supported in accordance with the prescribed "Outline of Information to be Submitted in Support of an Application for Insurance of Accounts or a

Request for a Commitment t
Accounts" (hereinafter in thi
ferred to as "Outline of Infor

§ 562.3 Filing and amendment
tion.

An application for insuran
counts shall be filed with the
tion by delivering four copie
together with four copies o
porting information, to the
sory Agent. After an applic
insurance of accounts has b
with the Corporation, and pr
date of advice by the Su
Agent to the applicant t
notice of the filing of the a
pursuant to § 562.4, the appl
file additional information i
of the application and may
after the date of such advice
cant may not amend the app
file any additional support
mation unless requested to
the Supervisory Agent or oth
or on behalf of the Corporat

[36 FR 13682, July 23, 1971]

§ 562.4 Processing of applicatio

Processing of an applicat
this part shall follow the
set forth in § 543.2 (d), (e),
this chapter.

(Sec. 301, 91 Stat. 1147, 12 U.
seq., Pub. L. 95-128 (the Comm
vestment Act of 1977); sec. 5, 48
amended; 12 U.S.C. 1464; secs. 4
408, 48 Stat. 1256, 1257, 1260,
12 U.S.C. 1725, 1726, 1730, 82 St
90-255, 12 U.S.C. 1730a; Reorg.
1947, 12 FR 4981, 3 CFR, 194
1071)

[43 FR 47162, Oct. 12, 1978]

§ 562.5 [Reserved]

§ 562.6 Exceptions to the fore
dure.

(a) *Procedure prior to State charter.* The foregoi
of this part shall be appli
application submitted to o
ance of accounts by person
of organizing a new inst
who have received a con
proval of organization fro
but have not yet receive
except that said organize
tially submit, in lieu of an

NOT BE LIMITED BY LAW UNLESS THAT LAW EXPRESSLY REFERS TO THIS SECTION.]

In my suggested language, I have deleted reference to the limitations imposed on federally chartered institutions on the theories that automatic imposition of additional restrictions/limitations may upset the state statutory/regulatory framework and that the commissioner already has authority to impose such limitations, see e.g. AS 06.30.025 and 030.

✓6. Director Qualifying Stock. Request is made that AS 06.30.145(b) be amended to read as follows:

> In a stock association each director shall own individually, or jointly with his spouse, [IN HIS OWN RIGHT] free of any encumbrance capital stock of the association in an amount equal to at least $1000 in par value.

This language follows that of the Model Act and is considered necessary pursuant to matters raised in supervisory audits of Peninsula Savings and Loan Association.

✓7. Investment in Securities. AS 06.30.610(9) permits investments in "other stocks, securities or obligations which the commissioner approves and places on a published list." Pursuant to an item which showed up on a recent supervisory audit, Peninsula Savings and Loan Association requested that bankers' acceptances be placed on the published list of approved investments. The commissioner candidly pointed out that the Department has yet (since 1961) to develop such a list and, again, indicated a preference for legislative action (as opposed to administrative). Accordingly, request is made that AS 06.30.610(9) be redesignated as subsection (10), and that a new subsection (9) be added to read as follows:

> assets which qualify as liquid assets as defined in Section 523.10(g) of Title 12, Code of Federal Regulations, and other assets, except time deposits and bankers' acceptances, which would so qualify

> a member, or stockholder, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members or stockholders except upon express action and authority of the board of directors.

This language closely follows the language of the Model Act (1979 version); the amendments add reference to stockholders and delete subsection (c) of AS 06.30.115. Subsection (c) is a bad provision for at least three reasons. First, as the statutes are presently drafted, subsection (c) contradicts the provisions of AS 06.30.120. Second, it incorporates the common law concept of inspection applicable to business corporations, see AS 10.05.240, to savings associations, but without any of the safeguards as to relevancy and proper purpose. Third, it ignores the difference between business corporations and financial institutions, the latter being dedicated to the public interest (under extensive regulatory control) and subject to annual (if not more frequent) inspection by the Director of Banking and the Federal Home Loan Bank Board.

Sec 8

✓4. Ten Percent of Assets Limitation on Second Lien Loans. AS 06.30.555(b)(4) should be repealed. There are no similar limitations on federal savings and loan associations, see 12 C.F.R. §§545.6, et seq., thereby rendering state savings and loan associations noncompetitive.

No!

5. Automatic Tie-In with Federal Powers. AS 06.01.020, as amended by Ch. 63 SLA 1981, gave the commissioner broad regulatory authority to grant state-chartered financial institutions powers enjoyed by federally chartered institutions (and to impose federal limitations on state-chartered institutions). The present administration has indicated a preference for legislation, as opposed to regulation, in order to effect any changes in state powers (and limitations); accordingly, the commissioner has not issued any regulations in the savings and loan area pursuant to AS 06.01.020, despite request for such regulations.

I suggest that it was the intent of AS 06.01.020, as amended, to at least allow state institutions to be competitive with federal institutions; such intent is frustrated if the ad-

Stock Subscription

§ 523.4 Subscription.

An applicant shall subscribe for stock when it applies for membership.

§ 523.5 Additional subscription.

At the end of each calendar year, a Bank shall notify any member if additional stock subscription is required.

§ 523.6 Adjustments in holdings.

A Bank may from time to time increase or decrease the amount of stock of any member to conform to section 6(e) of the act. If such amount is decreased upon proper application of the member, the Bank shall pay for each share, on its surrender, the value thereof determined under section 6(i) of the act, or, at its election, credit any part of such payment against the member's debt to the Bank. A Bank may require a member to give 30 days' written notice of intention to apply for such a decrease, and a member's holdings shall not be reduced to an amount less than required by section 10(c) of the act.

§ 523.7 Excess subscription.

With Bank approval, a member may subscribe for stock over the minimum amount, if the law under which the member operates so permits.

§ 523.8 Payment on subscription.

An applicant may, under section 6(d) of the act, pay in installments for subscribed stock. If an applicant's admission to membership is substantially delayed following application, and it has furnished all information required and complied with applicable laws and Board regulations, it may make its second payment on admission, and succeeding payments as prescribed in section 6(d). All other subscriptions shall be paid in full before stock certificates are issued.

Liquidity

§ 523.10 Definitions for purposes of this section, § 523.11 and § 523.12.

(a) *Cash.* Cash on hand and unpledged demand deposits in a Bank, an insured bank, or the Bank for Savings and Loan Associations, Chicago, Ill., but not gold in any form.

(b) *Insured bank.* A commercial bank whose deposits are insured by the Federal Deposit Insurance Corp., not under control of any supervisory authority.

(c) *Liquidity base.* A member's net withdrawable accounts, or the policy reserve of a member insurance company required by State law, plus the member's short-term borrowings.

(d) *Net withdrawable accounts.* All withdrawable accounts less the unpaid balance of all loans secured by such accounts, but not including tax and loan accounts or note accounts.

(e) *Short-term borrowings.* All borrowings payable on demand or in 1 year or less, but not including tax and loan accounts or note accounts.

(f) *Obligations of the United States.* Evidences of indebtedness issued by the United States, or issued by an agency or instrumentality thereof and fully guaranteed as to principal and interest by the United States.

(g) *Liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under this subsection or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement), as long as principal and interest on such assets are not in default:

(1) Time deposits in a Bank or the Bank for Savings and Loan Associations, Chicago, Ill.;

(2) Except as the Board may otherwise direct in a specific case, obligations of the United States maturing in 5 years or less;

(3) Obligations with 5 years or less remaining until maturity, issued, or fully guaranteed as to principal and interest, by:

(i) A Bank(s);

(ii) The Federal National Mortgage Association;

(iii) The Government National Mortgage Association;

(iv) A Bank(s) for Cooperatives, including the Central Bank for Cooperatives;

(v) A Federal Land Bank(s);

(vi) A Federal Intermediate Credit Bank(s);

(vii) The Tennessee Valley Authority;

(viii) The Export-Import Bank of the United States;

(ix) The Commodity Credit Corporation; or

(x) The Federal Financing Bank;

(4) Time and savings deposits in an insured bank, including time deposits held subject to a repurchase agreement and loans of unsecured day(s) funds to an insured bank (Federal funds or similar unsecured loans to insured banks), up to an amount not to exceed the maximum permissible investment in such deposits allowed under § 562.9-6 of this chapter, if:

(i) Except for loans of unsecured day(s) funds such time deposits are (*a*) negotiable and will mature in 1 year or less, (*b*) not negotiable and will mature in 90 days or less, or (*c*) not withdrawable without notice and the notice periods do not exceed 90 days;

(ii) Loans of unsecured day(s) funds will mature in 6 months or less; and

(iii) The priority of claims of a lender of unsecured day(s) funds is not subordinate to claims of depositors in the borrower thereof;

(5) Bankers' acceptances of an insured bank if:

(i) The total of all such acceptances of the same bank held by the same member does not exceed one-fourth of 1 percent of total deposits of such bank (as shown by its last published statement of condition preceding the date of acceptance);

(ii) Such acceptances will mature in 9 months or less;

(6) General obligations (other than gold-related obligations) of any State, territory, or possession of the United States, or political subdivision thereof, if:

(i) Such obligations continue to be either (*a*) rated in one of the four highest grades by the most recently published rating of such obligations by nationally recognized investment rating service or (*b*) issued by a public housing agency and have the full faith and credit of the United States pledged under § 1421a(c) or § 1437b(a) of Title 42 of the United States Code, as amended; and

(ii) Such obligations will mature in 2 years or less; and

(7) Shares or certificates in any open-end management investment company registered with the Securities and Exchange Commission under the Investment Company Act of 1940, while the portfolio of such company is restricted by its investment policy, changeable only by vote of the shareholders, to investments described in the other provisions of this paragraph (g).

(h) *Short-term liquid assets.* The total of cash, accrued interest on unpledged assets which qualify as liquid assets under paragraph (g) of this section, or would so qualify except for their maturities, and the book value of the following unpledged assets (including such assets held subject to repurchase agreement):

(1) Time deposits specified in paragraph (g)(1) of this section;

(2) Obligations specified in paragraphs (g) (2) and (g) (3) of this section, which will mature in 12 months or less;

(3) Time and savings deposits, including loans of unsecured day(s) funds, which qualify as liquid assets under paragraph (g) (4) of this section and, in the case of such time deposits which are negotiable, will mature in 6 months or less;

(4) Bankers' acceptances specified in paragraph (g) (5) of this section which will mature in 6 months or less;

(5) General obligations specified in paragraph (g) (6) (i) (*b*) of this section which will mature in 6 months or less and

(6) Shares or certificates of any investment company qualifying under paragraph (g)(7) of this section, to the extent that the investments of such company are eligible under this paragraph (h).

(Sec. 405, 96 Stat. 132, Pub. L. 98-221, as amended (12 U.S.C. 1437) Reorg. Plan No. 3 of 1947, 12 FR 4981, 3 CFR, 1947 Supp.)

[43 FR 46839, Oct. 11, 1978, as amended at 44 FR 15045, Mar. 15, 1979; 45 FR 57134, Aug. 27, 1980]

§ 522.11 Liquidity requirements

(a) *General.* Except as otherwise provided in paragraphs (b) and (c) of this section, for each calendar month, each member other than a mutual savings

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 752 Sectional Analysis:

Section 1) Amends AS 06.30.115 pertaining to access to books and records of a savings association. Members and stockholders of an association may inspect records pertaining to his loan, savings account, or voting rights. Retains provision that the commissioner (or his authorized representative), persons authorized by the association, and federal agencies authorized, may inspect the books and records of an insured association.

Section 2) Books and records pertaining to accounts, loans and voting rights of members, stockholders, savers and borrowers shall be kept confidential.

Section 3) In a stock association each director shall own capital stock ($1,000), individually or jointly with his spouse. Currently "in his own right".

Section 4) Exempts participation loans authorized under AS 06.30.530 from the prohibition against securing loans by mortgages on properties loacted outside the state.

Section 5) amends As 06.30.520 by the addition of language which would allow property improvement and consumer loans to be secured by liens on real estate and mobile homes.

Section 6) Adds the National Credit Administrator insured loans and loans approved by the Department to the list of eligibility for participation loans.

Section 7) allows investments in liquid assets as defined by federal regulation, as well as assets excluded from the definition because of maturity limitations, but not time deposits and bankers' acceptances.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 752
Title An Act relating to savings associations
Requested by Labor and Commerce Date

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	Ø					
200 TRAVEL	Ø					
300 CONTRACTUAL	Ø					
400 COMMODITIES	Ø					
500 EQUIPMENT	Ø					
600 LAND & STRUCTURES	Ø					
700 GRANTS,CLAIMS,ETC.	Ø					
TOTAL	Ø					

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø					
FEDERAL FUNDS	Ø					
OTHER (Specify Source)	Ø					

POSITIONS

FULL TIME	Ø					
PART TIME	Ø					
TEMPORARY	Ø					

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

Willis E. Kirkpatrick
Signature

IV. DATE February 18, 1982 PREPARED BY Willis E. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans, & Corp.
PHONE 465-2521

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

33-001 (Rev. 12/81)

COMMITTEE REPORT

SENATE

2/11/82

FURTHER: None

Date: 3 MARCH '82

Mr. President:

The Committee on LABOR & COMMERCE has had SB 752

savings associations

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING DO PASS	MEMBERS HAVING OTHER RECOMMENDATIONS:

Bill Glaser

CHAIRMAN

S 60 (Rev. 12/78)

charge may be made against borrowers for defaults or prepayments. However, nothing contained in this chapter prevents payment being made for the purchase of stock in a stock association. (§ 7 ch 49 SLA 1961; am § 12 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "may not charge" for "shall not charge" in the first and second sentences and added the third sentence.

Sec. 06.30.115. Access to books and records of association. (a) Every member may inspect the books and records of an association which pertain to his loan or savings account.

(b) Except as provided in (a) and (c) of this section, the right of inspection and examination of the books and records is limited to (1) the commissioner or his authorized representatives as provided in this chapter, (2) persons authorized to act for the association, and (3) any federal instrumentality or agency authorized to inspect or examine the books and records of an insured association.

(c) In stock associations every stockholder may inspect the general books and records of the association except a stockholder may not have access to the loan and savings records of other members. (§ 8(a) ch 49 SLA 1961; am § 13 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment inserted "and (c)" in subsection (b), and added subsection (c).

Sec. 06.30.120. Books and records pertaining to members' accounts to be kept confidential. The books and records pertaining to the accounts and loans of members shall be kept confidential by the association, its directors, officers and employees, and by the commissioner, his examiners and representatives, except where disclosure is compelled by a court of competent jurisdiction. No person, including a member, shall have access to the books and records or shall be furnished or shall possess a partial or complete list of the members except upon express action and authority of the board of directors. (§ 8(a) ch 49 SLA 1961)

Sec. 06.30.125. Communication between members. If a member desires to communicate with another member with reference to a question pending or to be presented for consideration at a meeting of the members, the association shall furnish upon request a statement of the approximate number of members of the association and an estimate of the cost of forwarding the communication. The requesting member shall submit the communication to the commissioner who, if he finds it is appropriate, truthful and in the best interests of the association and its members, shall execute a certificate setting out these findings, forward the certificate together with the communication to the

association, and direct the association to prepare the communication and mail it to the members upon payment to it by the requesting member of the expenses of preparation and mailing. (§ 8(b) ch 49 SLA 1961)

Sec. 06.30.130. Application of §§ 115—125 of this chapter to federal savings and loan associations. To the extent that §§ 115—125 of this chapter are not inconsistent with federal law, they apply to federal savings and loan associations whose home offices are located in this state, and to the members, except that the communication provided for in § 125 of this chapter shall be submitted to the Federal Home Loan Bank Board, Washington, D.C., and forwarded only upon that board's certificate and direction. (§ 8(c) ch 49 SLA 1961)

Sec. 06.30.135. Association to publish and furnish annual financial statement. Every association shall prepare an annual statement of its financial condition in the form prescribed or approved by the commissioner. The statement shall be published annually each January in a newspaper of general circulation in the city in which, or in the immediate vicinity of which, the home office of the association is located. The association shall deliver a copy of the statement to each member upon his request. (§ 9 ch 49 SLA 1961)

Sec. 06.30.140. Association under direction of board of directors. The business of the association is directed by a board of directors of not less than five or more than 25 as determined and elected by ballot from among the members by a plurality of the votes of the members present. If authorized by vote of the members, vacancies on the board of directors may be filled by a simple majority vote of the remaining directors, and those persons so appointed may serve only until the next annual meeting of the association. At all times at least two-thirds of the directors shall be bona fide residents of this state. (§ 10(a) ch 49 SLA 1961; am § 14 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment substituted "25" for "15" in the first sentence and the language beginning "vacancies on the board of directors" for "the directors may elect all directors" at the end of the second sentence.

C.J.S. reference — 9 C.J.S. Banks and Banking § 968 et seq.

Sec. 06.30.145. Qualifications of directors. (a) To qualify as a director, a member of a mutual association shall hold a savings account with the association having a withdrawal value of at least $1,000. A director automatically ceases to be a director when he ceases to be a member, or when the net equity above loans of all savings accounts in the association held by him aggregates less than the minimum required to be eligible for election as a director. However, no action of the board of directors is invalid through the participation of the director in the action. If a director becomes ineligible under this section by reason of the exercise by the association of the right of redemption of savings

accounts provided for in §§ 475—485 of this chapter, he remains in office until the expiration of his term or until he otherwise becomes ineligible.

(b) In a stock association each director shall own in his own right free of any encumbrance capital stock of the association in an amount equal to at least $1,000 in par value.

(c) Each director shall take an oath that he will faithfully and honestly perform the duties of his office and will not violate or permit to be violated any provisions of this chapter. The oath shall be filed annually in the office of the department. (§ 10(b) ch 49 SLA 1961; am § 15 ch 164 SLA 1978)

Effect of amendment. — The 1978 amendment designated the provisions of this section as subsection (a), and in that subsection, substituted "a mutual association" for "an association" and "$1,000" for "$500" in the first sentence, inserted "with the association" in the first sentence, and deleted the former second sentence, which read "If the assets exceed $2.5 million, the withdrawal value of the account must be at least $2,000." The amendment also added subsections (b) and (c).

Sec. 06.30.150. Classification of directors. At the first annual meeting, the directors shall by majority vote be divided into three classes of as nearly equal numbers as possible. The term of office of directors of the first class expires at the first annual meeting following the first election; the term of office of the second class expires one year thereafter; and the term of office of the third class expires two years thereafter. At each annual election thereafter directors shall be chosen for a full term of three years to succeed those whose terms expire. (§ 10(c) ch 49 SLA 1961)

Sec. 06.30.155. Number of directors increased only by members. The number of directors may be subsequently increased only by vote of the members. (§ 10(d) ch 49 SLA 1961)

Sec. 06.30.160. How vacancy on board of directors caused by increase in number of directors is to be filled. If the members fail to elect a director to fill each vacancy created by an increase, the directors may fill the vacancy by electing a director to serve until the next annual meeting of the members, at which time a director shall be elected to fill the vacancy for the unexpired term for the class of director in which the vacancy exists. (§ 10(e) ch 49 SLA 1961)

Sec. 06.30.165. Classification of new directors elected to fill vacancies. Whenever the number of directors is changed and vacancies caused by the change are filled, the directors so elected shall be classified so that each of the three classes contains numbers as nearly equal as possible. (§ 10(f) ch 49 SLA 1961)

Sec. 06.30.170. When vacancy on board of directors is to be filled by directors. A vacancy among directors, not filled by the members, may be filled by a majority vote of the remaining directors, though less than a quorum, by electing a director to serve until the next annual meeting

successor in interest without notice to the original party, except where there is a written agreement to the contrary, and may forbear to sue or may extend time for payment of the secured debt or otherwise modify its terms without discharging or in any way affecting the original liability of the party upon the debt. (§ 23(f) ch 49 SLA 1961)

Sec. 06.30.520. Property improvement and small loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. A loan may be made with or without security, except that a loan without security may not exceed $4,500. An association may not make property improvement loans exceeding 25 per cent of its assets. An association may make small loans to members with or without security not exceeding $2,500. However, an association may not make small loans exceeding 15 per cent of its assets. The total amount of loans made under this section may not exceed 25 per cent of the assets of the association. (§ 23(g) ch 49 SLA 1961)

Sec. 06.30.525. Power to purchase loans and to lend upon loans. The power to make loans includes (1) the power to purchase loans of any type that the association may make and (2) the power to make loans upon the security of loans of any type that the association may make. (§ 23(h) ch 49 SLA 1961)

Sec. 06.30.530. Participation loans. An association may participate with other lenders in loans of any type that an association may otherwise make, if the other lenders are instrumentalities of or corporations owned wholly or in part by the United States or this state, or are associations organized under the laws of this state, or are associations or corporations insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or are life insurance companies with assets in excess of $100 million, or are employees' or self-employed persons' trusts qualified and exempt from federal income tax under the laws of the United States. (§ 23(i) ch 49 SLA 1961)

Sec. 06.30.535. Sale of loans. An association may sell without recourse any loan, including its participating interest in a loan, at any time, if the total dollar amount of the loan sold, including the sale, within the calendar year beginning January 1 immediately preceding the date of the sale, does not exceed a sum equal to 25 per cent of the dollar amount of all loans and participating interests in loans held by the association at the beginning of the calendar year. However, the commissioner, upon application of the association showing good cause, may authorize the sale of a greater amount during a calendar year. Notwithstanding the limitations of this section, loans may be assigned with recourse to the Federal Home Loan Bank of which the association is a member. (§ 23(j) ch 49 SLA 1961)

Article 9. Investments and Borrowing.

Section
610. Investments in securities
615. Investments in real estate
616. Investment in service corporation
620. Power to borrow

Sec. 06.30.610. Investments in securities. An association may invest in the following securities:

(1) obligations of, or guaranteed as to principal and interest by, the United States or this state without limitation;

(2) stock of a Federal Home Loan Bank of which it is eligible to be a member and in obligations or consolidated obligations of any Federal Home Loan Bank;

(3) stock or obligations of the Federal Savings and Loan Insurance Corporation;

(4) stock or obligations of a national mortgage association or its successor;

(5) demand, time, or savings deposits with a bank or trust company whose deposits are insured by the Federal Deposit Insurance Corporation;

(6) stock or obligations of any corporation or agency of the United States or this state, or in deposits therewith to the extent that the corporation or agency assists in furthering or facilitating the association's purposes or powers;

(7) savings accounts of an association operating under this chapter and of a federal savings and loan association;

(8) evidence of indebtedness which is a general obligation of a city, town, village, school district, or other municipal or political subdivision of this state;

(9) other stocks, securities or obligations which the commissioner approves and places on a published list. An association investing in securities listed by the commissioner is not required to dispose of the securities if at a later time the commissioner removes the securities from the list. (§ 26(a) ch 49 SLA 1961)

C.J.S. reference. — 9 C.J.S. Banks and Banking § 1008 et seq.

Sec. 06.30.615. Investments in real estate. (a) An association may invest an amount which does not exceed the sum of its capital stock, surplus, undivided profits and reserve accounts in real estate including buildings and appurtenances as may be or reasonably anticipated to be necessary or convenient for the transaction of its business from portions of which a revenue may be derived by rentals or otherwise. However, the commissioner may approve investment of a larger sum.

(b) An association may also invest in:

(1) real estate purchased at any type of sale upon which it has a lien or claim;

(B) secured in addition to the amortized mortgage by a savings account held by the lending institution in an amount equal to 15 percent of the loan or other collateral acceptable to the department.

(3) No investment may be made in a conventional loan secured by a mortgage on a one-to-four family residence unless the mortgaged property is located inside the state.

(4) Repealed by § 15 ch 71 SLA 1981.

(5) The loan may not be made to a director, officer, or employee except when secured by home property owned and occupied by the director, officer, or employee.

(6) No investment may be made in a mortgage upon a leasehold unless

(A) the leasehold has an unexpired term of not less than two years beyond the maturity of the loan;

(B) the principal amount of the mortgage loan is not in excess of 80 per cent of the appraised value of the leasehold; and

(C) provision is made for completed amortization of the loan within an unexpired term by period payments as the department may prescribe.

(7) No investment may be made in a conventional loan secured by a mortgage on a multiple-family dwelling or improved real estate if the loan exceeds 90 percent of the appraised value of the property or has a maturity exceeding 40 years from the date the loan is made. (§ 23(c) ch 49 SLA 1961; am § 27 ch 164 SLA 1978; am §§ 3-6, 15 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in paragraph (1), substituted "the net worth of the association or an amount equal to 10 percent of the savings liabilities of the association, whichever is less, except that a mortgage investment in the aggregate amount of $100,000 or less may be made notwithstanding the provisions of this paragraph" for "two percent of the assets of the association at the time the investment is made, or $90,000 on a single-family dwelling or $90,000 per unit on a multiple-family dwelling or other improved realty, whichever is greater, or other maxima established by the commissioner by regulation." In paragraph (2), the amendment substituted "90" for "two percent of the assets of the association at the time the investment is made, or as specified in (1) of this section, whichever is greater, or more than 80" preceding "percent of the appraised value," substituted "40" for "30" preceding "years," added "a" preceding "mortgage" and substituted "insurer authorized to do business in Alaska with coverage in an amount acceptable to the department" for "insurance in an amount equal to 20 percent of the loan issued by a mortgage insurer authorized to do business in Alaska" in subparagraph (A) and substituted "15" for "10" preceding "percent" in subparagraph (B). In paragraph (3), the amendment substituted "No" for "except as provided in (1) of this section, no" preceding "investment" and deleted "and the mortgage has a maturity not exceeding 30 years from the date the loan is made" following "inside the state." The 1981 amendment also repealed paragraph (4) and added paragraph (7).

Editor's notes. — For limitation on investments in loans on improved real estate, see paragraph (7) of this section.

Sec. 06.30.505. Other loans. (a) An association may use for loans other than those specified in AS 06.30.500 an aggregate amount not exceeding 30 percent of the assets at the time of use, or a larger amount

if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and with the approval of the commissioner as follows:

(1) home loans, whether direct-reduction or not, which exceed 90 percent of the appraised value of the home property securing the loan;

(2) [repealed]

(3) home loans of any amount, which are not direct-reduction home loans, regardless of where the home property securing the loan is situated;

(4) other real estate loans, whether amortized or unamortized, regardless of amount or location of real estate securing the loan.

(b) A subsequent reduction of savings liability does not affect outstanding loans made under this section.

(c) An association may, subject to regulations adopted by the commissioner, invest not to exceed 20 percent of its assets in loans secured by mobile homes.

(d) The loans referred to in (a) of this section may not exceed 90 percent of appraised value of the property securing the loans except as provided in AS 06.30.500 and 06.30.510. (§ 23(d) ch 49 SLA 1961; am §§ 28, 29 ch 164 SLA 1978, am § 7 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (a), added "if a loan made after 30 percent of the assets of the association have been used is made with a written commitment by a secondary investor to purchase the loan within a reasonable time and" preceding "with the approval" in the introductory language and in paragraph (1), substituted "90 percent of the appraised value of" for "$90,000 each, regardless of where" preceding "the home property" and deleted "is situated" following "securing the loan." In subsection (b), the amendment deleted the former first sentence which read "The power referred to in (a) of this section is referred to as the '30 percent of assets lending power' " and substituted "this section" for "the 30 percent of assets lending power" in the second sentence. In subsection (c), the amendment substituted "20" for "10" preceding "percent of its assets" and, in subsection (d), substituted "90" for "80" preceding "percent of appraised value."

Sec. 06.30.507. Lending standards. An association may not make a loan unless it has determined that the type, amount, purpose, and repayment provisions of the loan in relation to the resources and credit standing of the borrower support the reasonable belief that the loan is financially sound, will be repaid according to its terms, and is lawful. (§ 8 ch 71 SLA 1981)

Sec. 06.30.520. Property improvement and consumer loans. An association may make property improvement loans to property owners for maintenance, repair, modernization, improvement, and equipment of their properties. In addition, an association may make consumer loans. A property improvement or consumer loan may be made with or without security. An association may not make property

improvement loans exceeding 25 percent of its assets or consumer loans exceeding 40 percent of its assets. (§ 23(g) ch 49 SLA 1961; am § 9 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment added the present second sentence, added "property improvement or consumer" preceding "loan" and deleted "except that a loan without security may not exceed $4,500" following "without security" in the third sentence, deleted "an association may make small loans to members with or without security not exceeding $2,500. However, an association may not make" from the end of the third and beginning of the fourth sentences, substituted "or consumer" for "small" preceding "loans exceeding," substituted "40" for "15" preceding "percent of its assets" and deleted the former last sentence which read "The total amount of loans made under this section may not exceed 25 percent of the assets of the association."

Sec. 06.30.535. Sale of loans.

Repealed by § 15 ch 71 SLA 1981.

Editor's notes. — The repealed section derived from § 23(j), ch. 49, SLA 1961.

Sec. 06.30.540. Servicing loans. An association may service loans. (§ 23(k) ch 49 SLA 1961; am § 10 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment substituted "loans" for "mortgages and trust deeds made by the association and later sold subject to regulations and restrictions prescribed by the commissioner" following "service" in the first sentence and deleted the former second sentence which read "The maximum principal amount of mortgages and trust deeds serviced by an association at any one time shall not exceed two-thirds of the amount of the savings liability of the association."

Sec. 06.30.555. Security for real estate loans. (a) Every real estate loan shall be secured by a mortgage, trust deed, or other instrument constituting a first lien, or the equivalent of a first lien, upon the real estate securing the loan, according to lawful or well-recognized practice best suited to the transaction. The instrument, constituting a first lien, is referred to in this chapter as a "mortgage." The mortgage shall provide specifically for full protection to the association for the loan and additional advances and the usual insurance risks, taxes, assessments, other governmental levies, maintenance, and repairs. The mortgage may provide for the assignment of rents which becomes absolute upon the borrower's default and operative upon written demand made by the association. The mortgage shall be recorded in accordance with law.

(b) An association may, subject to the requirements of this chapter, make or acquire a loan by a second lien on improved real estate if

(1) payments on the loan secured by the first mortgage are current and the bank retains in its records a written report of the status and balance of the first lien loan as of the date the second lien loan is made or acquired;

REPEALED;

(2) the total of the balance of the loan secured by the first lien and the loan secured by the second lien does not exceed the maximum percentage of appraised value permitted under AS 06.30.500(2);

(3) the second mortgage agreement contains a provision that the association is entitled to be subrogated to all rights of the borrower under the first mortgage;

(4) the total aggregate amount of such loans outstanding does not exceed 10 per cent of the association's assets. (§ 24 ch 49 SLA 1961; am § 30 ch 164 SLA 1978; am § 11 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment, in subsection (b), substituted "AS 06.30.500(2)" for "AS 06.30.505(d)" in paragraph (2).

Article 9. Investments and Borrowing.

Section

616. Investment in service corporations

Sec. 06.30.616. Investment in service corporations. An association may, subject to the approval of the commissioner, invest in capital stock, obligations, and securities of any service corporation organized under the laws of this state if: (1) the entire capital stock of the service corporation is available for purchase only by one or more savings and loan or banking institutions having their home offices in the state; and (2) substantially all of the activities of the service corporation are similar or incident to activities which may be engaged in by a service corporation in which a federal savings and loan association may invest or such other activities as the commissioner may approve. Investments in service corporations may not exceed five percent of the assets of an association. (§ 33 ch 164 SLA 1978; am § 12 ch 71 SLA 1981)

Effect of amendments. — The 1981 amendment rewrote this section.

Article 11. Conservatorship and Receivership.

Section

665. Commissioner may apply for appointment of conservator

Sec. 06.30.665. Commissioner may apply for appointment of conservator. If satisfactory corrective action is not taken within a reasonable time after the order of the commissioner under AS 06.01.030, the commissioner, if he believes that the public interest may be served by the appointment of a conservator, may, acting through the attorney general, apply to the superior court for the appointment of a conservator. (§ 38(b) ch 49 SLA 1961; am § 4 ch 94 SLA 1980)

SB
756

STATE OF ALASKA
DEPARTMENT OF REVENUE
OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH S
JUNEAU, ALASKA 99811
PHONE: (907) 465-2300

March 24, 1982

The Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Re: SB 756

Dear Senator Mulcahy:

The Department of Revenue would like to propose that the following amendment be added to SB 756 which is presently in your Committee. The amendment would allow the Department to promulgate regulations for multistate financial institutions under Chapter 43.70.

> AS 43.70.090. The department may adopt regulations necessary to determine and collect the fees imposed [AND TO ENFORCE] by this chapter and may promulgate regulations defining the necessary methods of combination and apportionment for multistate financial institutions required to file under this chapter.

Financial institutions are not covered by the corporate income tax statute (AS 43.20) in Alaska. They are treated instead under AS 43.70.030(b), the Alaska Business License Act, and the license fee for these institutions is seven percent of their net income. Although the Department feels that it has the authority to promulgate regulations defining methods of combination and apportionment for multistate financial institutions, the amendment would clarify that position and that the treatment for multistate financial institutions is the same as other multistate corporations for taxing purposes.

The attached fiscal note is for an auditor position to monitor the new corporations the bill would permit to operate in the state.

Sincerely,

Joseph K Donohue

Joseph K. Donohue
Deputy Commissioner, Taxation

JKD:DLC:jas

Enclosure

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 756
Title An Act relating to the ownership of financial institutions
Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Revenue
Program Category Affected Audit
BRU, Program, Or Subprogram(s) Affected _____
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		45.0	45.0	45.0	45.0	45.0
200 TRAVEL		5.0	5.0	5.0	5.0	5.0
300 CONTRACTUAL						
400 COMMODITIES		.3	.3	.3	.3	.3
500 EQUIPMENT		1.2				
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		51.5	50.3	50.3	50.3	50.3

FUNDING (Thousands of Dollars)

GENERAL FUND		51.5	50.3	50.3	50.3	50.3
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME						
TEMPORARY						

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

IV. DATE March 16, 1982 PREPARED BY R. Kessel / N. David Ziemer
AGENCY Revenue
Original: Legislative Finance PHONE 465-2319
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

opinion

3/18/82

Anchorage Daily News

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Interstate banking needs close look

An idea that cropped up in a hurry last legislative session — interstate banking in Alaska — is back on the agenda in Juneau. Legislators who Monday took testimony on proposals to lower the barriers against Outside penetration of Alaska's banking industry would do well to study carefully before taking any action on the matter.

The issues are complex. Competition among financial institutions; financial resources and services available to Alaskans; flows of capital into and out of the state; short- and long-term interests of bank shareholders; control over important economic resources; benefits or disadvantages to local consumers . . . all would be affected by a major change in state banking law. Wider political concerns include the desires of major banks to break down interstate banking barriers nationwide — and the resulting concentration of power and resources that could ensue.

Last year, legislators wisely rejected special legislation to allow interstate banking here — a proposal sought by Seattle's Rainier Bancorporation when it wanted to acquire Anchorage's Security National Bank. The abruptness and reach of the plan troubled local bankers and politicians alike, and it was tabled for later consideration. Now the issue is back, and Rainier, among others, is still in the market.

Legislators should move cautiously, as any good banker would do. If Alaskans can benefit by improved services, increased financial resources and more sophisticated financing options, the proposal may have real merit. But state leaders should know well the balance of costs and benefits that go with interstate banking before taking action on any such plan.

and shareholders.

(h) As used in this section "out-of-state bank holding company" means a company that

(1) is a bank holding company as defined in the Bank Holding Company Act of 1956, as amended (12 U.S.C. 1841, et seq.);

(2) is registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations of the bank holding company are principally conducted, or with a Federal Reserve Bank that the Board of Governors may designate;

(3) maintains its principal office and place of business outside the state; and

(4) principally conducts its *[BANKING] operations [THROUGH OUT-OF-STATE BANKING SUBSIDIARIES], as measured by total deposits held or controlled by it on the date on which it becomes an out-of-state bank holding company;

*[(i) FOR THE PURPOSE OF THIS SECTION, A TRUST COMPANY ORGANIZED UNDER THE LAWS OF THIS STATE WHICH IS CONDUCTING A BANKING BUSINESS SHALL BE DEEMED TO BE A STATE BANK.]

*Sec. 5. [THIS ACT TAKES EFFECT IMMEDIATELY IN ACCORDANCE WITH AS 01.10.070(c).]

STATE OF ALASKA

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, GOVERNOR

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

February 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on SB 756.

SB 756, an act relating to ownership of financial institutions by out-of-state bank holding companies, this department and the Division of Banking, Securities, Small Loans and Corporations, although not necessarily advocating interstate banking, does support the full legislative process in determining the needs of the state, its citizens and a sound financial community. We opposed the special interest activity noted on this subject during the last legislative session.

SB 756 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended in the bill, there may be serious problems in regulation and enforcement ability by the department.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EHE/wfs 3/3

OB-H2LF

Enclosures

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Summary SB 756:

Amends the Alaska Banking Code (AS 06.05) to allow ownership of "in state" banks by out of state bank holding companies. Adds a new subsection to allow an out of state bank holding company to acquire and own all, or a portion of the voting securities or other capital stock of, or all or substantially all of the assets of, one or more state banks, domestic bank holding companies, or national banks conducting business in the state unless the national bank is a "recently formed bank". A recently formed bank is one that has conducted banking business in the state on or after July 1, 1982, and that has not been in existence and continuously operating in the state for a period of three years or more.

Would allow the state to require "out of state" bank holding companies to post a bond to assure full protection of the public. Provides that when the department considers it neccessary, an out of state holding company is subject to an examination by the state or its designee.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SB 756 Sectional Analysis

Section 1) Amends AS 06.05.235 (a) which essentially removes the prohibition against a company to own, control, or hold with power to vote 25% or more of a class of voting securities or other capital stock of one or more state banks or domestic bank holding companies; inserts the word state before the word bank, and domestic before the words bank holding company throughout the section. See section 4 which enables the "out of state bank holding company" to participate in the acquisition of domestic banks, and addresses the criteria for the acquisition of a domestic bank.
Section 2) Section relates to domestic bank holding companies, the bond requirement and formula for a bond which may be required of a domestic bank holding company, and the required examination which must be conducted at least once a year.

Section 3) Grants the Alaskan regulator (Department of Commerce and Economic Dev) the right to adopt regulations for both domestic and out of state bank holding companies.

Section 4) enables out of state bank holding companies to acquire all, or a portion of the voting securities or other capital stock and assets of one or more state banks, domestic bank holding companies, or national banks conducting a business in the state. Defines the bond requirement and formula for the bond, and that when necessary, the department shall conduct an examination and the out of state bank holding company shall pay the fee. Further, defines recently formed bank, and the limitations on acquisition of Alaskan banks. Section also defines "out of state bank holding companies" and lists the criteria for becoming an out of state bank holding company.
SEE ATTACHMENT FOR Specifics
Section 5) Effective date of July 1st, 1982.

Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 756 Interstate Banking;

1) Enables interstate banking unless the bank is a "recently formed bank".

2) "Recently formed bank" is defined as a state or national bank conducting business in the state that commenced that business in the state on or after July 1st, 1982; and that has not been in existence and continuously operating in the state for a period of three years.

3) "Recently formed bank" does not include a bank:
   a) organized solely for the purpose of facilitating acquisition of a bank that had been in existence and continuously operating in the state for a three year period, or conducting business on or before June 30th, 1982.
   b) a state bank that was not chartered (directly or indirectly) by an acquiring bank holding company, and that the department determines does not have the capacity to conduct business independently in a manner consistent with the public interest.
   c) a national bank that the Board of Governors of the Federal Reserve or its designee determines was not chartered (directly or indirectly) by an acquiring bank holding company, and that does not have the capacity to conduct its business independently in a fashion consistent with the public interest.

4. "Out of state bank holding company" is defined as:
   a) a bank holding company as defined in the Bank Holding Company Act of 1956 (12 USC 1841, et seq.)
   b) must be registered as a bank holding company with the Board of Governors of the Federal Reserve System, with the Federal Reserve Bank of the Federal Reserve District in which the operations are principally conducted, or with a Federal Reserve Bank that the Board of Governors may desiganate.
   c) maintain its principal office and place of business outside the state;

d) principally conducts its operations out of the state, as measured by total deposits held or controlled by it on the date on which it becomes an out of state bank holding company.

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 5, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Review on Interstate Banking Activity

You have asked the Division of Banking, Securities Small Loans, and Corporations for some information concerning current activities in interstate banking. I have enclosed for your consideration a review of some of the activities that we are aware of; please bear in mind, however, that the review is not meant to be all inclusive.

The review mentions electronic automated teller machines as one current form of interstate banking. There are other forms like loan production offices, Edge Act offices, etc. The review also does not include foreign country banks that have branches in various states. California, Oregon, and Washington, for example, have foreign banks in their states. California claims that the Japanese banks in California were one of the major economic forces in California in the early 70's in building their international trade.

If you have any other questions, you may wish to contact Mr. Willis F. Kirkpatrick, Director of Banking, direct at 465-2521.

Sincerely,

Edward W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/krb 4/14

Enclosure
cc: Senator Pat Rodey

08-H2LH

Division of Banking, Securities, Small Loans & Corporations
Interstate Activity
Review
March 1, 1982

Citizen Savings of San Francisco, California (3.6 billion) merged with Westside Federal, New York City, New York (2.5 billion) and Washington Savings, Miami Beach, Florida (1 billion). This amounts to 88 offices in California, 18 offices in Florida and 30 offices in New York. The new organization is called First Nationwide Savings.

Glendale Federal of California (5.5 billion) merged with First Federal of Broward County, Fort Lauderdale, Florida (2.6 billion). This amounts to 115 offices in California and 35 offices in Florida.

City Federal, Elizabeth, New Jersey (3 billion) merged with Boca Raton Federal in Florida (294 million) and Mohawk Savings, Newark, New Jersey (88 million). This merger provided for 90 offices in New Jersey and Florida.

Home Savings, Los Angeles, California (12.8 billion) merged with Security Federal, Sikeston, Missouri (83 million), Hamiltonion Federal, Ladue, Missouri (236 million) and Southern Federal, Broward County, Pompano Beach, Florida (612 million). This merger resulted in 143 offices in California, 16 in Missouri and 13 in Florida.

The above mergers were mainly as a result of regulators looking for the cheapest way to salvage ailing thrift institutions. There are additional mergers forthcoming because of continued economic constraints for thrift institutions.

Commercial banks appear to be positioning themselves for a time when interstate banking restrictions fall completely.

Citicorp of New York invested 12 million dollars in the preferred stock and warrants of Central National Bank in Chicago and established nearly 700 lending offices in 40 states. Also, Citicorp of New York has moved its credit card center to South Dakota.

Citicorp has launched an all-out effort in California to create legislation which would permit out-of-state banks to branch in California under the terms of the Douglas Amendment to the Bank Holding Company Act.

Citicorp has also been interested in Connecticut but a state commissioner has retained a moratorium on interstate banking.

First Bank System Incorporated of Minneapolis, a multi-state bank holding company with 92 grandfather banks and trust companies has agreed to buy banks of Iowa, Inc., a ten bank holding company, contingent upon laws changing to permit the purchase.

Northwest Bancorp has agreed to acquire Des Moines based Consumer Finance Company with 500 offices in 37 states.

Other examples of the limited investment by bank holding companies and banks across state lines that are being permitted are the acquisition up to five percent of the outstanding common stock of ten regional banks by National Detroit Corp. and the $125 million in capital that Chase Manhattan Corp. has sunk into Equimark Corp., a Pittsburg bank holding company.

The International Banking Act of 1978 called for a review of geographic restrictions in banking. Late in the Carter administration, there was a report done called the McFadden Act Report. The context of the McFadden Act Report discussed what might the direction be of geographic deregulation take place in the 1980s.

> "First, banking organizations might gain permission to bid for takeovers of failing banks or thrift cross state lines. Second, holding companies or their banks might gain permission to expand or extend their deposits or loan facilities across state lines within metropolitan areas. These activities, however, might be restricted initially to deposits through automatic-teller machines. Third, there might be interstate acquisitions and contiguous states or within special regions through bilateral or multilateral changes in state laws (California, New York, for example) or by changes in the Douglas Amendment to the Bank Holding Company Act. The report states that as a political compromise, permission to cross state lines through merger or acquisitions might be limited to smaller institutions which would limit large holding companies to de novo entry or perhaps to operate across state lines only in large metropolitan areas."

The report goes on to state that geographic deregulation will come eventually, largely because the banking industry already is effectively expanding nationwide (except for direct deposits and loan facilities) and still is losing ground to other industries that can expand nationally without restrictions.

Changing technological forces in the banking industry is also a major factor in promoting interstate banking. Automatic-teller machines (ATMS) and point of sale terminals already are economically viable and are proving increasingly popular with consumers. Such technology will exert further pressure on branching laws and interstate restrictions.

A feature article entitled "Electronic Banking" in Business Week, January 18, 1982 discusses a meeting held in Chicago by executives from a dozen of the largest U.S. and Canadian banks to form a joint venture that would create the first national retail banking network. If the purpose of the meeting becomes a reality, these financial institutions will share their 2,500 automated teller machines so that customers could obtain cash from any one of them simply by inserting their proprietary debit cards issued by each bank for the use in its own automatic teller machines. It will mark the formation of an electronic network potentially capable of delivering on an nationwide scale all manner of retail banking services. This network was named "Cirrus" and is expected to be in operation by April '82.

The following is a quote from the Business Week article.

> "To most participants, the race to form national ATM networks, represents an opportunity to speed up dramatically their schedules for achieving nationwide banking. These networks are already conducting some interstate banking, including deposit taking in some cases. The politicians and regulators appear to view the sharing of electronic facilities as a palatable form of interstate banking and are happy to look the other way. It now appears that full service, electronic banks will be up and running nationally by 1985. This is the earliest date that Congress is expected to repeal the 1927 McFadden Acts prohibition against interstate banking."

In a recent bank conference, there was brought out another ATM network in formation in addition to "Cirrus" which would be approximately 4,000 ATMs in major cities throughout the Untied States and Canada.

Holding companies in Alabama, South Carolina and Georgia have agreed to merge when and if interstate banking is allowed. The combination, if put into effect today, would create the largest bank holding company in southeast, with a combined size of 7.8 billion. Each company has agreed to buy $2 million of nonvoting, preferred stock of each other until such time that interstate banking restrictions are lifted.

A North Carolina bank holding company, NCNB Corp., $7.1 billion in assets, has publicly announced plans to buy a "large" Florida banking companpy by 1983. Through a loophole in Florida law, NCNB last year acquired the $21.5 million - deposit First National Bank of Lake City, Florida.

Florida National Bank of Florida, Inc., one of the state's largest holding companies, has reached a merger agreement with Chemical New York Corp. This agreement is dependent on authorization of interstate banking.

In February of 1982, the Florida Banker's Association voted to endorse the idea of interstate banking. This position is an attempt to bring some order to an apparently inevitable process.

The new comptroller of currency, C. Todd Conover, testified during recent senate banking committee hearings, stated that the "time has come" to remove geographic limitations on bank branching.

SEN. PATRICK RODEY
CHAIRMAN
(907) 465-3717

SEN. TERRY [illegible]
SEN. ARLISS STURGULEWSKI

ALASKA STATE LEGISLATURE
SENATE BANKING COMMITTEE
POUCH V, JUNEAU 99811

I'll be in touch with this Bob Kelly

M E M O R A N D U M

DATE: March 19, 1982

TO: Members, Senate Special Committee on Banking
Members, House Special Committee on Loans

FROM: Jim Kelly, Administrative Assistant J. K.

RE: Banking Legislation in Congress

Please find enclosed a copy of a document prepared by the U.S. House Committee on Banking dealing with changes in the banking industry. The questions presented are basic indeed, and similar to those we must ask as the Alaska State Legislature considers amending existing banking statutes.

[COMMITTEE PRINT 97-8]

FINANCIAL INSTITUTIONS IN A REVOLUTIONARY ERA

COMMITTEE ON BANKING, FINANCE AND URBAN AFFAIRS HOUSE OF REPRESENTATIVES

97th Congress, First Session



OCTOBER 1981

Printed for the use of the
Committee on Banking, Finance and Urban Affairs

This report has not been officially adopted by the Committee on Banking, Finance and Urban Affairs and may not therefore necessarily reflect the views of its members

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85-552 O WASHINGTON : 1981

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LETTER OF TRANSMITTAL

October 28, 1981.

To the Committee on Banking, Finance and Urban Affairs:

The following document, entitled "Financial Institutions in a Revolutionary Era", sets forth a wide range of issues and proposals regarding the provision of financial services in this nation. We have previously indicated that we support a two tiered approach to consideration of the major issues involving the financial services industry. This involves separation of emergency assistance legislation from long-range issues and proposals.

The first tier is embodied in H.R. 4603, the Deposit Insurance Flexibility Act, which passed the House on October 28, 1981 by a vote of 371 to 46. That bill provides the deposit insurance agencies more flexibility to deal with financially distressed depository institutions.

The second tier will include a look at issues revolving around expanded lending powers, improved delivery of credit and other financial services to consumers and the economy, interstate banking, the Glass-Stengall Act, usury and other statutes affecting consumer lending, and questions concerning the competitive balances throughout the financial community. These matters require a full airing.

This discussion document was developed by the staff of the Committee as a guide for prospective witnesses and the members of the Committee in discussing the subject of financial institution restructuring. The compilation of questions and proposals is intended to be suggestive and is not all-inclusive.

FERNAND J. ST GERMAIN,
Chairman, House Committee on
Banking, Finance and Urban Affairs.

J. WILLIAM STANTON,
Ranking Republican Member, House Committee on
Banking, Finance and Urban Affairs.

FINANCIAL INSTTTUTIONS IN A REVOLUTIONARY ERA

A little over a year and one-half ago, the Depository Institutions Deregulation and Monetary Control Act of 1980 was signed into law in order to deregulate the deposit taking function of financial institutions. Now it appears the pace of change in the financial marketplace is so rapid that a substantial portion of the remaining statutes governing the operation of financial institutions--depository and non-depository--needs to be reviewed. Those laws, many of which were passed in the wake of the Great Depression, established a system of specialized financial institutions differentiated by product lines and markets. The result was a system where commercial banks emphasized demand deposits and commercial and agricultural loans; savings and loan associations and mutual savings banks emphasized savings deposits and home mortgage loans; credit unions provided financial services for a field of membership based primarily on employment; investment companies pooled capital and invested in securities; brokers and dealers packaged equity and debt offerings for sale to investors; finance companies borrowed funds to make commercial and consumer loans; and insurance companies used premiums for all kinds of investments closely related to actuarial needs.

An elaborate framework of Federal and state restraints and protections was created to maintain this system of specialized financial institutions. Market entry was restricted, product lines were limited and the prices of services were controlled. For example, depository institutions were provided deposit insurance, controls on prices paid for funds, and restrictions on competition. Securities dealers and investment firms were provided with distinct product lines and other activities which other financial institutions could not offer, and they were prohibited from accepting "deposits."

Today, however, the marketplace is eroding the justification for this system of specialized financial institutions and its regulatory framework. The following examples reveal the depth and magnitude of the challenges to this system. We cite them not because we consider them improper, but because they reflect the changes which are occurring in the marketplace:

1. Sears, Roebuck and Co., a retailer of merchandise through department stores and its famous catalogs, provides multi-line insurance through its Allstate insurance subsidiary, operates a major savings and loan in California, has one of the largest credit card operations in the nation, plans to offer its own money market mutual fund, and is purchasing one of the nation's largest real estate brokerages and one of the nation's largest securities brokerage houses.

2. National Steel Corporation now has a savings and loan subsidiary which reaches both coasts. Its California savings and loan acquired savings and loans in New York and Florida in a recently publicized case.

3. American Express, which operates a travel and entertainment card system, a multi-line insurance company, and a major international bank, is now linked with one of the largest securities brokerage houses through its merger with Shearson Loeb Rhoades, Inc. That firm recently acquired a trust company in Boston as well.

4. Prudential Insurance Corporation has acquired Bache Group, Inc., another major brokerage house.

5. Banc One in Ohio agreed with Merrill Lynch to assist in the operation of the latter's cash management account. Other depository institutions are considering similar arrangements.

6. Bank holding companies in the West and the East have changed operational modes to position themselves for possible nationwide banking. Western Bancorporation in California (which has subsidiaries in eleven Western states) changed its name and that of its subsidiaries to "First Interstate Banks." Financial General (which has subsidiaries throughout the Washington, D.C. metropolitan area) changed the name of its banking subsidiaries so that each has a common name—"First American Banks."

7. Several of the nation's largest banking firms have been purchasing shares of banks in various states—up to the five percent permissible limit—in anticipation of relaxation of restrictions on interstate banking.

8. At least two firms have used a "loophole" in the Bank Holding Company Act to escape the restrictions on non-banking firms owning banks. These companies—major finance companies—have acquired banks and divested them of their commercial loan portfolios. The banks have become consumer banks, dealing in consumer deposits and loans.

9. Savings and loan associations in Washington, D.C., and Florida have announced plans to establish a money market mutual fund.

10. Major banking firms have operated loan production offices for years all over the United States.

11. Federal savings and loans have received regulatory authority to establish electronic fund transfer systems nationwide.

12. Money market mutual funds have continued to expand by offering customers the ability to earn high rates of return on their money with flexible withdrawal capability. These funds move money by wire and mail, do not rely on deposit insurance as an attraction for customers, and are not subject to geographic restrictions on their operations.

13. The international operations of U.S. banks continue to expand in response to the increasing interdependence of the international economy; and foreign banks continue to expand into the U.S., in some cases on more favorable terms than domestically owned banks.

In large measure it is the changing financial needs of individuals and corporations which have led to the increased homogenization of financial institutions. Banks, savings and loans, mutual savings banks, credit unions, mortgage bankers, investment companies, and insurance companies are all offering, in many cases, similar and competing services to customers. The ability of all these institutions to speak to the needs of their customers, however, is limited by the differing

regulatory frameworks under which they operate. Thus, the time has come to examine in more detail the supervisory and regulatory structure governing financial institutions.

The nation needs a rational statutory and regulatory structure for its financial institutions so that the financial services the people and the firms of this country need are provided fairly and efficiently in the evolving financial marketplace. Market forces are shaping the services that are offered now and statutory restrictions keep many depository institutions from providing the services the market demands. Congress must examine the role of government as it affects all customers of financial institutions. The nation's economy and the public interest require a system of financial intermediaries which assures all segments of the population needed services while moving capital efficiently.

To provide guidance in examining the financial structure of the United States, there follows an outline of broad questions and more specific issue areas. The Committee intends to focus discussions first on the needs of the economy for financial services and then on the nature of the delivery system required to fulfill those needs. Thus, rather than first looking at the lending powers of commercial banks, the focus should be on the demand for commercial credit. For example, the rapid development of the commercial paper market in which companies raise short-term funds in the open market rather than rely on bank loans has implications for the type of delivery system needed for this financial service. This one illustration is offered merely to indicate the breadth of the analysis which must be undertaken.

While it is imperative to answer the overall policy questions first, at the same time we must direct the Congress attention to specific proposals, many of which currently exist in legislation now pending before the Committee on Banking, Finance and Urban Affairs. Therefore, in several of the sections that follow, specific proposals are listed which the Committee should discuss in the process of addressing the overall public policy issues.

The Committee on Banking, Finance and Urban Affairs will hold hearings on these issues and proposals in order to elicit views from all affected individuals and groups. The issues and proposals are intended to illustrate the wide variety of issues that need examination and are by no means all-inclusive.

I. Definition of Financial Services

The innovations of the last decade suggest that the traditional perception of financial services is not appropriate. Old distinctions among types of financial services are being blurred. Thus, several basic issues need exploration.

A. What financial services do consumers, businesses and institutions require?

B. Is a deposit different from a security, and, if so, in what ways?

C. Is a loan to a commercial firm different from an equity security offered by that commercial firm?

II. The Role of Specialized Financial Institutions

The changes which have occurred in the financial marketplace suggest that money flows rather freely, especially in an inflationary environment. Structures and protections designed to assure flows of funds to specialized institutions or to specific areas of the economy no longer operate as designed. Geographic and product restrictions do not stop funds from flowing to higher rates of return or to alternative uses. Distinctions among institutions, with each type offering some unique services, have become blurred by recent events and statutory changes. The rationale for these distinctions and the need for their perpetuation, at least in institutional form, require examination.

A. Should there be distinct types of financial institutions which provide services to a defined portion of the economy? If so, should these types be determined by statute or by the market?

B. Should new types of institutions with specified powers and protections be created to fill particular needs?

C. Should existing institutions be given parallel powers to allow free competition among these institutions?

D. Should Federal savings and loan associations and Federal mutual savings banks be authorized to switch freely from mutual to stock charters and from savings and loan to mutual savings bank form?

E. Should mutual savings banks, savings and loans, and credit unions be authorized to accept demand deposits from any source?

F. Should Federal mutual savings banks and Federal savings and loans be authorized to invest in or make loans for a broad range of purposes—real estate, agriculture, commerce—without restriction?

G. Should mutual savings banks, savings and loans, and commercial banks be authorized to take equity positions in real estate?

H. Should commercial banks have expanded authority to engage in real estate lending?

I. Should commercial bank and thrift institution service corporation investment limitations be liberalized?

J. Should commercial bank lending and borrowing limitations applicable to loans to one borrower and to affiliates, and applicable to bankers' acceptances, be liberalized?

K. Should Federal credit unions be allowed to make all types of consumer loans without restriction as to loan size or purpose of the loan?

L. Should Federal credit unions be provided authority to engage in expanded real estate lending activities?

M. Should the International Banking Act be modified in light of changing market conditions?

N. Should the procedures and limitations on insider loans by banks be liberalized in light of inflationary effects on loan limits and should these limitations be extended to other depository institutions to reflect homogenization of investment and deposit taking authority?

O. Should the Bank Holding Company Act and the Savings and Loan Holding Company Act be modified to provide parallel treatment of bank and savings and loan holding companies and should the procedures of both be streamlined?

III. The Distinction Between Depository and Nondepository Institutions

A substantial portion of banking statutes was designed to segregate banking and commerce. This segregation was designed to prevent concentrations of economic power, to minimize conflicts of interest involving relationships between the two areas, and to assure a safe and sound banking system, but it has been severely ruptured. Exceptions allowed in earlier years and based on a rationale that was meaningful then have become major factors affecting potential competition in a restructured financial marketplace. For example, savings and loan holding companies exist which combine manufacturing and depository institutions—combinations precluded under laws governing bank holding companies. Nonbank firms now solicit funds and provide services in direct competition with depository institutions. The existing distinctions need to be reexamined.

A. Should existing restrictions on cross-ownership of institutions or on provision of services be eliminated?

B. Can the antitrust laws provide adequate protection against concentration of power involving financial institutions and nonbank firms?

C. Is separation required to provide an ample flow of capital to firms and governments requiring funds for their endeavors? If not, then should all types of firms be subject to the same supervisory and regulatory requirements?

D. Should a Presidential Commission be convened to review and make recommendations regarding modification or elimination of the restrictions on corporate investments and underwriting by depository institutions and on financial/non-financial institution mergers and acquisitions?

E. Should all depository institutions be permitted to establish subsidiaries which would be free to engage in securities operations, provided such subsidiaries are subject to the same restrictions as the securities industry?

F. Should brokerage houses be permitted to establish subsidiaries which would be free to engage in deposit and lending operations, provided such subsidiaries are subject to the same restrictions as depository institutions?

G. Should all depository institutions have the authority to sponsor, sell, or underwrite mutual funds?

H. Should all depository institutions have the authority to underwrite municipal revenue bonds or all forms of bonds?

I. Should all depository institutions have the authority to take equity positions in export trading companies?

K. Should the Depository Institution Management Interlocks Act and the Glass-Steagall Act interlock restrictions be modified in light of the changes being made in the nature and operation of depository institutions and their holding companies and of nondepository institutions?

L. Should all restrictions on interstate depository operations be terminated and, if so, should this be permitted (1) by holding companies, for example, by allowing a phased acquisition of depository institutions by out-of-state depository holding companies unless a state acted to prohibit such acquisitions of its institutions, in which

case holding companies which conducted their business principally in that state would be barred from acquiring institutions in other states; (2) by holding company acquisitions in contiguous states; or (3) in market areas like Standard Metropolitan Statistical Areas?

M. Should electronic fund transfer systems be authorized for nationwide operation?

IV. The Role of Government in the Financial Marketplace

Government now is intimately involved in the financial marketplace. Laws on both the Federal and state levels of government provide restrictions, protections, supervision and guidance for institutions providing financial services and for those receiving or buying financial services. This involvement must be reconsidered.

A. To what extent should the government continue to provide mechanisms, whether directly or indirectly, to assure that services are provided for such specific sectors of the economy as housing, small business, and agriculture?

B. Should the government remove all of its supports for and impediments to the provision of financial services and allow market forces to determine the shape of the financial system?

C. Should government continue to provide liquidity for financial institutions by maintaining operations which create secondary markets for products of financial institutions and by providing sources of funds to meet liquidity needs or to continue levels of business?

D. Should the Federal secondary market institutions have liberalized Federal charters or should they be allowed to secure charters as nonbanking firms do now to allow market forces to determine which secondary market services are provided?

E. Should all Federal depository institution chartering authority be eliminated to allow such institutions to choose charters as nonbanking firms do now?

F. Should controls on the price paid for funds, whether as loans, deposits, or securities, be eliminated and, if so, should protections be provided to assure that all people and institutions have fair access to funds? If not, should existing restrictions be modified to assure that all financial instruments are subject to similar price controls?

G. Should Federal law provide a preemption of state usury ceilings—on consumer loans and in modified form on business and agricultural loans—with states having a time period within which to reimpose state ceilings, or should a national usury law be enacted?

H. Should the Credit Control Act be modified and extended?

I. Should disclosures and protections on alternative mortgage instruments be provided, and should the option of a fixed rate mortgage be required?

J. Should the Home Mortgage Disclosure Act, the Community Reinvestment Act, the Truth-in-Lending Act, and the Equal Credit Opportunity Act be reviewed to determine how best to provide disclosure of community, mortgage, and loan activities of changed financial institutions?

K. Should the government establish direct lending operations to provide credit and other financial services for the provision of housing or other national needs?

V. A Regulatory Structure for a Future Financial System

There is in many ways a bewildering assortment of regulatory agencies with jurisdiction over institutions providing financial services. The Federal Reserve System, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank System, the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, the National Credit Union Administration, the Comptroller of the Currency, the Securities and Exchange Commission, the Commodity Futures Trading Commission, the Federal Trade Commission, the Depository Institutions Deregulation Committee, and the Federal Financial Institutions Examination Council all regulate and supervise financial institutions and products. In many cases the philosophies of the agencies differ significantly. For example, depository institution regulation is characterized by close supervision through examination and through statutory limitations. This system relies on governmental officials for enforcement of statutes and for maintenance of stability in the industry. Securities regulation is characterized, on the other hand, by disclosure to the public and by supervision that relies less on government. These distinctions and the need for these agencies require examination.

A. Should the supervisory and regulatory structure of financial institutions be reconstituted? If so, should a single agency be created?

B. Should the regulatory structure be based on disclosure to the public as is the case with the securities industry or should the current system that relies on government be maintained?

C. Should the deposit insurance system be broadened to include all forms of financial instruments?

D. Should government continue to provide deposit insurance at levels which may tend to insulate depository institutions from market judgments about the riskiness of a depository institution's operations?

E. Does the private market have the capability to develop an insurance product which would provide deposit insurance and, if so, is it sufficient to allow restructuring of the Federal deposit insurance programs?

F. Should the depository institution regulatory agencies be restructured to create one agency responsible for insurance, one for supervision and promotion, and one for control of the money supply?

G. Should the deposit insurance funds be consolidated into one fund with the remaining functions and structures intact?

H. Should deposit insurance assessments be based on risk as in other forms of insurance?

I. Should the Central Liquidity Facility for credit unions be modified to provide more flexibility for its operations?

J. Should the charter of the Depository Institutions Deregulation Committee and the regulations promulgated to phase-out deposit ceilings be modified?

It can be seen from the above that many, if not all, of these issues are related to each other. Answers provided in one area lead to questions and answers in other areas. An examination of these complex issues, however, can assist in the development of a financial system which can meet the nation's future needs.

O

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

March 18, 1982

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: Interstate Banking - Other States

In reponse to your request, the following is a breakdown, by states, of the restrictions imposed.

Delaware - restrictions

1. may not purchase existing banks - may form new bank;
2. minimum $25 million capital;
3. minimum 100 employees by end of the first year.

Maine - restrictions

1. unlimited but, reciprocity is a requirement. No other state is as liberal, therefore, no out-of-state purchases have been made;
2. $5 million minimum capital required.

New York - restrictions (proposed legislation)

1. outright purchase of New York banks or may form bank;
2. limited to New York City;
3. reciprocal with other states.

Rhode Island

1. may purchase existing banks and are subject to banking laws of state;

2. may not purchase if insured deposits exceed 20% of deposits located in the state;
3. must maintain 65% of assets or 85% of deposits in state;
4. acquisition must be approved by commissioner.

South Dakota - restrictions

1. may acquire an existing bank but minimum capital must be $25 million or a new bank with capital of $5 million;
2. approval of commission required (certain findings must be made somewhat like needs and convenience).

In addition, I have enclosed for your information, two recent articles on the subject from The American Banker. If I may be of further assistance, please feel free to call on me at any time.

Sincerely,

E. W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/saE/38

Enclosure

The Only Daily Banking Newspaper

VOL. CXLVII NO. 28 Wednesday, February 10, 1982

White House Looks to Ease Bank Statutes

By JAY ROSENSTEIN

WASHINGTON — The Reagan Administration plans to conduct an analysis of existing consumer credit laws and other banking statutes to determine whether the burdens on financial institutions can be reduced.

The White House will review the rules and record-keeping requirements of the Truth-in-Lending Act, the Fair Credit Reporting Act, the Electronic Funds Transfer Act, the Real Estate Settlement Procedures Act, and the Employee Retirement Income Security Act.

The announcement, made last week, said reducing the burdens of the regula-

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he final installment of Federal Reserve

Interstate Banking Gets A Florida 'Yes'

Bankers Association Board Favors It in Surprise Vote

Special to the American Banker

TAMPA, Fla. — Directors of the Florida Bankers Association, in a surprise move, voted here this week to endorse the idea of interstate banking as long as it is "on a phased-in basis."

Although the issue of interstate banking is complex and inspires a variety of

NCNB Corp.'s Big Florida Plans, Page 2.

opinions from Florida bankers, they and their association have generally opposed the concept.

As one Florida banker said after the vote, taken in a specially called meeting, "I think the (new) position will surprise you."

FBA members are being notified by mail this week of the directors' vote.

Florida has been besieged by attempts to cross its borders with trust and loan-production offices and outright acquisitions. C. Carl Mertins, the Pensacola banker who is currently FBA president, explained the vote as a response to the "de facto interstate banking occurring on an accelerated basis."

A principal complaint of Florida bankers has been what they call the "piecemeal" encroachment by out-of-state banks, and their position is an attempt to bring some order to an apparently inevitable process.

The position has five parts:

1. There should be regional reciprocity — in Florida's case among eight southeastern states — effective Jan. 1, 1984.

➳ Florida: Page 34

Metropolitan Banl Feared Ready to

Rescuers Also Sought for Bi

By ROBERT E. NORTON and JOHN MORRIS

NEW YORK — Reports were circulating in the financial community Tuesday about the impending failure of a $200 million-deposit commercial bank in Florida and the forced merger of a billion dollar asset savings and loan association, the largest state-chartered thrift in Illinois.

Talks are continuing in Illinois with several potential rescuers of Unity Savings Association, an official of the Federal Home Loan Bank of Chicago said. All are thrifts and all are in the state.

In Florida, according to industry sources, the Metropolitan Bank of Tampa was set to be closed by the state's banking department last Friday, but a last minute paperwork problem set the timetable back a week.

If the Tampa bank fails, it would be the largest commercial bank failure since 1978, when the $208 million-deposit Drovers National Bank closed in Chicago. At yearend 1980, the Metropolitan Bank listed $214.5 million in deposits. Depending on its deposit size at the time of closing, it could be the largest failure since the 1976 closing of the Hamilton National Bank of Chattanooga, which had deposits of $400 million.

The Federal Deposit Insurance Corp., the sources said, had solicited bids from more than a dozen banking companies to assume certain assets and the deposit liabilities of Metropolitan. The bidders were said to include North Carolina's NCNB Corp. — which has said it is looking to expand further in Florida — as well as major Florida-based bank holding companies.

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ASSETS	
Cash & due from depository institutions	$181,751
U.S. Treasury securities	43,001
Obligations of States and political subdivisions in the United States	57,188
Other bonds, notes, and debentures	2,511
Federal Reserve stock and corporate stock	1,090
Federal funds sold and securities purchased under agreements to resell in domestic offices of bank and of its Edge and Agreement subsidiaries	40,000
Loans, Total (excluding unearned income) $208,950	
Less: Allowance for possible loan losses 5,097	
Loans, Net	203,853
Lease financing receivables	8
Bank premises, furniture and fixtures, and other assets representing bank premises	2,899
Real Estate owned other than bank premises	40
Customers' liability to this bank on acceptances outstanding	1,436
Other assets	10,296
TOTAL ASSETS	$544,073
LIABILITIES	
Demand deposits of individuals, partnerships, and corporations	$210,789
Time and savings deposits of individuals, partnerships, and corporations	189,377
Deposits of United States Government	621
Deposits of States and political subdivisions in the United States	3,537
Deposits of foreign governments and official institutions	234
Deposits of commercial banks	1,812
Certified and officers' checks	6,496
TOTAL DEPOSITS IN DOMESTIC OFFICES $412,866	
Total demand deposits 220,939	
Total time and savings deposits 191,927	
TOTAL DEPOSITS IN FOREIGN OFFICES AND EDGE AND AGREEMENT SUBSIDIARIES 9,870	
TOTAL DEPOSITS	$422,736
Federal funds purchased and securities sold under agreements to repurchase in domestic offices of bank and of its Edge and Agreement subsidiaries	30,968
Interest-bearing demand notes (note balances) issued to the U.S. Treasury	5,534
Banks liability on acceptances executed and outstanding	1,436
Other liabilities	16,773
TOTAL LIABILITIES (excluding subordinated notes and debentures)	$477,447
EQUITY CAPITAL	
Common stock (par value)	17,926
No. shares authorized 350,526	
No. shares outstanding 358,526	
Surplus	18,414
Undivided profits	30,286
TOTAL EQUITY CAPITAL	66,626
TOTAL LIABILITIES AND EQUITY CAPITAL	$544,073
Amounts outstanding as of report date:	
Standby letters of credit:	
Standby letters of credit, total	$15,438
to U.S. addressees (domicile) 15,438	
Time certificates of deposit in denominations of $100,000 or more in domestic offices	116,374
Other time deposits in amounts of $100,000 or more in domestic offices	250
Customers' liability on acceptances outstanding	1,436
U.S. addressees (domicile) 1,436	
Average for 30 calendar days (or calendar month) ending with report date:	
Cash and due from depository institutions	166,872
Federal funds sold and securities purchased under agreements to resell	10,613
Total loans	212,699
Time certificates of deposit in denominations of $100,000 or more in domestic offices	114,514
Total deposits	367,133
Federal funds purchased and securities sold under agreements to repurchase	27,329
Total assets	507,679

I, John Eberle, Vice President & Cashier, of the above named bank do hereby declare that this Report of Condition is true and correct to the best of my knowledge and belief.

JOHN EBERLE
January 25, 1982

We, the undersigned directors attest the correctness of this statement of resources and liabilities. We declare that it has been examined by us, and to the best of our knowledge and belief is true and correct.

THEODORE H. SILBERT
EDNA J. DENERSTEIN
ARTHUR F. SILBERT
Directors

Florida . . .

Continued from page 1

2. Nationwide reciprocity would come three years later, effective Jan. 1, 1987.

3. There would be no de novo establishment of banks across state lines at anytime.

4. Expansion would ensue only through mergers and acquisition.

5. Eligibility for merger or acquisition would be limited to banks at least three years old.

The directors also registered their opposition to HB 883 before the U.S. House of Representatives and SB 370 before the Senate, both interstate banking bills, unless they incorporate the phased-in aspects supported by their position.

Interstate banking as it relates to Florida has taken several forms, but has almost never been out of the headlines for some five years. Out-of-state banks have won in the courts the right to establish trust offices in Florida.

The issue of out-of-state banks' loan-production offices caused a bitter political fight that led to a gubernatorial veto of the prohibition the FBA managed to get passed in the legislature.

The FBA formally opposed the recent acquisition of First National Bank of Lake City by NCNB Corp., Charlotte, N.C.

Southern Florida has become a focus for Edge Act offices of out-of-state banks, and many Florida bankers see the facilities as just so many brick-and-mortar trojan horses prepared for the advent of interstate banking.

Chemical New York Corp. has reached an agreement with Florida National Banks of Florida, Jacksonville, to merge, though their agreement is hotly contested in the courts by Southeast Banking Corp., Miami.

The competition is over Florida's industrial growth, its relatively dynamic housing market, a per-capita income that is the highest in the growing Southeast, and an affluent retirement community.

This week's vote was seen as important for its acceptance of the tide of support for liberalized interstate banking opportunities, with the FBA no longer trying to turn back that tide but resigned to trying to channel it. ■

21	12¾	Central Bk Sys, Oakland, .40s	17	—¾
13¼	9¼	Ctl Bcsh of Sth,Brmgham, .80	9¾	...
16¾	13¼	Central Carol Bk of NC, .96	14	...
17¾	12¾	Central Fidelity Banks Inc., 1.24	17¾	...
8½	7¾	Central Jersey B&T, Freehld, .80s	8	...
9	3½	Central Natl Chicago Cp	3¾	—¼
27	19	Central Pacific Cp., Bakersfield, .64	25	—½
16¾	11¾	Central Penn Natl Corp, 1.41e	16½	+¼
27½	15¾	Centran Corp, Cleveland, .40	19½	...
14¼	8¾	Century Banks Inc., Fla, .48	13½	—½
11¾	7¾	Charter Co., Jacksonville, 1.00	7¾	—¼
59¾	42¾	Chase Man Corp, NYC, 3.40	58¼	+¾
61½	42	Chemical New York Corp, 3.84	49⅝	—¼
26¾	21¼	C&S Corp, Charleston, 1.60	22¾	...
9½	7¾	C&S Georgia Corp., Atlanta .48	8¾	...
29¾	20⅛	Citicorp, New York, 1.56	24¾	...
38¼	17⅜	Citizens Fidelity Corp, Ky, 1.08s	18¼	...
38	22	City N Corp., Beverly Hills, .80	32¼	—½
22	12¾	Cityhust Bcp. Inc., Bridgeport, 1.24	21¼	—¼
8¾	6¼	Colonial Am Bkshs, Roanoke, .80	7¾	—¼
18¾	15	Colonial Bcp., Waterbury, 1.80	18¼	...
31½	20	Colo N Bkshrs, Denver, 1.00s	22¼	—¼
29¼	22	Commerce Bcsh, Kansas C, 1.68	28	...
8½	5	Commerce S'west Inc., Dallas, .20	7¼	—¼
17¾	9¾	Commerce S'west Inc., pfd., .75	N.A.	N.A.
23¾	14¼	Commerce S'west Inc., pfd. 1.462	20¾	...
16	7	Commercial Bancorp of Colo.	13¾	...
20¾	14½	Comm'l Trust, Jersey City, 1.60	15½	...
30	22¾	Commonwealth NB, Pa., 2.32	30	...
32½	16	Conn. NB, Bridgeport, 1.76	28½	—¼
33½	21¼	Cont'l Bank, Norristown, 2.04s	33½	...
42½	21½	Cont'l Illinois Cp., Chicago, 2.00	34	—½
41¾	24	Crocker Natl Corp., S.F., 2.40	38¼	+¼
30½	25	Cullen Frost Bkrs., San Ant. .84s	25¾	...
49	28½	Dauphin Dep. Corp., Pa. 3.00s	45½	...
30¾	24¼	Dep. Guar Cp., 1.70	25	—½
38	23¾	Depositors Corp., Augusta, 2.32	35¾	c
24½	19¾	Detroitbank Corp., 2.00	22¼	...
17¼	13	Dominion Bksh., Roanoke, 1.00s	12½	—¼

E-F

13⅜	5¼	Ellis Bkg Co, Bradntn, .40e	11⅜	...
12	4⅜	Equimark Co. Pittsburgh	5⅜	...
22	11	Equitable Banc, Baltimore, .76s	21¼	...
18½	9¼	Exchange Banc, Tampa, .60s	16⅜	+⅛
25	8¼	Fidelcor Inc., Phila., Pa. 1.00	24⅜	—¼
29⅛	23¼	Fidelity Union, Newark; N.J. 2.80	23¾	+¼
29¼	17	First Ala Bcsh, Mntgomery, 1.68	26½	...
17⅛	11½	1st Amer. Bk. Cp., Kalamazoo, 1.32	15½	—¼
13¾	7⅛	First American Cp., Nashville, .90	12¾	...
15¾	15	First & Merch., Richmond, 1.00s	15¾	—⅛
18½	8¾	First Ark. Bkstock, LR, .50s	18½	...
28⅞	10½	First Atlanta Corp., Atlanta, .88s	17	...
20½	13	First Bancgroup, Ala., 1.12	17½	...
39½	16½	FirstBancorp Inc., New Haven, 1.60	28½	—1
27½	16¼	First Bcsh. of Louisiana, .80	27½	...
23¼	14½	1st Bksh. Cp of Fla., Pmpo. B, 1.00	15	...
23¾	16¾	First Bksh, Columbia, S.C., 1.40	21¾	...
46¼	32	1st Bank System, Mnpls, 2.44	32¼	...
20⅜	15½	First Chicago Corp., 1.20	18	—⅜
40½	30½	First City Banc, Houston, 1.06s	30½	—½
33¼	14½	First Comm Cp, New Orleans, 1.20s	29	...
41	20½	First Conn Bancorp, 1.92	39	...
20	14	1st Empire State, Buffalo, .80	16¼	—¼
11	3¾	1st Fla Bks Inc, Tampa, .36	8½	...
32	23	1st Hawaiian Inc, Honolulu, 2.40s	27	...
16¼	12	First Illinois Cp., 1.00	13¼	...
43¼	31½	First Interstate Bancorp., L.A., 2.04	30¾	—⅜
17	12	1st Jersey Nat'l Corp, JC, 1.60	13¼	...
40¾	22¾	1st Ky Natl Cp, Louisville, 2.36	31¾	—½
14½	5	First Marine Banks, Inc, .34	14½	...
24¾	13¾	First Maryland Bncp, Balt, 1.40	19¾	—¼
35	13½	First Natl Bcp, Denver, 1.40	27¼	...
32	25	First Nat'l Bcsh, Little Rock, 2.00	32	...
75	30½	First Natl Bk, Midland, Tex, 1.20s	75	...
20¾	12½	1st Natl Bk of NJ, Totowa, 1.60	14¾	—½
47¾	24¾	First Natl Boston Corp, 2.88	40¾	—½
31¾	21	1st Natl Charter, KC, Mo., 1.88	28½	...
28	21¼	1st Natl Cincinnati Corp., 2.40s	25¼	—¼
21	14	First Natl Corp., Appleton, Wis., 1.12	15	...
25½	20	First N State Bcp., Newark, 2.20s	24½	+½
22¼	13	1st N.M. Bksh., Alberquerque, 1.04	18¼	...
26½	12½	First Okla. Bncp., Okla. City, .60	22½	...
5	2⅛	First Penn Corp, Phila.	2⅜	...
¼	3/16	First Penn. Corp., Wts	¼	...
15½	9	First Peoples Bank of NJ, 1.32	10	...
11¼	8	First RR & Bkg Co of Ga, .60	10¼	...
26½	16½	1st Security Cp, Salt Lake, 1.00	16½	...
17⅜	9½	First Tenn Natl Cp.,Memphis, 1.08	14⅜	...
38	19¾	First Tulsa Bancorp, Inc., 1.50s	38	...
24⅜	9¾	First Union Corp, 1.12	21⅜	...
37	28¼	First United Banc, Ft Worth, 1.12s	29⅜	...
10	6¼	1st Va Bks Inc., Falls Church, .60	7¼	—⅛
35⅞	26	First Wis Corp, Milwaukee, 2.00	27¼	—⅛
28⅛	10¼	Flagship Banks, Fla 1.00	22½	+⅛
11⅜	6¼	Florida Coast Banks Inc, .32	10¼	...
12⅜	9⅛	Florida Coast Banks pfd., 1.00	10⅜	...
29	11	Florida Commercial Banks, 1.00	23½	...
29¼	11¼	Florida Natl Bks of Fla .80	28¼	+½
28	14	Fourth Finel Corp, Kan, 1.36s	28	...

G-M

22¼	15	General Bancsh, St Louis, .88	17⅛	—⅛
32	23¾	Girard Co, Phila, 2.24	29¼	...
10	5¼	Great Amer Banks, Inc., Miami	6¼	+¼
15¼	11¼	Great Am Cp, Baton Rouge, .65	14	...
24	12¾	Greater J Banc, W.Paterson, 1.60	21	...
5⅛	3	Guarantee Bk, Atlantic City, .20	3⅛	—⅛
12¼	7⅛	Gulfstream Banks, Inc., Fla. .32	9½	...
31¼	24½	Harris Bankcorp, Chicago, 2.20	27½	c
26¼	18¼	Hartford Natl Corp, 1.80	20½	...
17¼	13½	Hawkeye Bcp, DMoines, Iowa, .96s	15¼	+⅛
17¼	13¾	Heritage Bcp., Cherry Hill, 1.44	15	...
18	8½	Heritage Wisconsin Corp., .60	13½	...
33	25½	Hibernia Cp, New Orleans, 1.20	26½	—⅛

American Banker February 16, 1982

Delaware Officials Now Look to Attract Foreign Banks

Special to the American Banker

WILMINGTON, Del. — Delaware, the state that jumped the gun on interstate banking, is now tackling international banking.

While the effort to attract overseas business is not expected to have as big an impact on the local economy as the banks, state officials expect to introduce new legislation welcoming international banking in late March.

Since mid-December, a draft of proposed legislation has been circulating among the legal and banking communities for comment.

The "foreign bank development act" is an effort to find "the mother lode" said David Singleton, administrative assistant to Wilmington's mayor, William T. McLaughlin. "The draft legislation is an effort to crystallize the possibilities."

The most controversial among several proposals in the legislation is one to allow foreign and U.S. banks to form new subsidiaries with looser requirements for capital and numbers of employees than set forth in the landmark 1981 Financial Center Development Act.

That law, welcoming out-of-state banks and lifting usury ceilings on interest rates, established a capitalization floor of $25 million and minimum employment of 100 jobs per bank. Last week, Chemical Bank of New York announced plans to open a new bank here, the 10th out-of-state bank to do so.

Investment companies, by comparison, could maintain a minimum capital stock and paid-in surplus of $2 million and employ a minimum of 10 persons.

The proposed law also would extend favorable tax rates to new foreign banks, just as last year's banking law did. Tax rates would range from a maximum of 8.7% for banks and trust companies earning up to $20 million in net income to 2.7% for those with net income of more than $100 million.

Revisions Are Possible

Glenn C. Kenton, secretary of state said he thought the draft would be subject to "substantial" revisions. "I've heard a lot of suggestions and questions," he said. "In my judgement, it's going to take several weeks to distill the issues."

One issue, he said, is "to what extent are quasi-banks going to be subject to capital and employment requirements." He noted that they couldn't be called banks because they would not make loans nor take deposits.

Under the draft legislation, the new

➤ Delaware: Page 21

Bank Stocks

Frankfort . . .

Continued from page 2

"outsiders seizing control of deposits in your local bank."

Key members of the Progressive Bankers Association of Kentucky, an organization formed last fall to push multibank legislation, began huddling minutes after the House vote in order to map its next move.

Similar legislation could be introduced in the Kentucky Senate, although House members originally were considered to be more receptive.

Kentucky BA Opposed Measure

Thomas R. Brumley, president of the $62.2 million-deposit First State Bank in Greenville and of the Progressive Bankers group, said proponents of the multibank measure failed to overcome the opposition of the state's Farm Bureau and of the Kentucky Bankers Association.

A poll by the Kentucky BA just before the general assembly opened in early January found that nearly two-thirds of the group's member banks opposed multibank formation. The results were similar to an earlier poll conducted by the legislative research commission for an interim House-Senate panel.

C. Merwin Grayson Jr., president of the $95.7 million-deposit Covington Trust & Banking Co. and a member of the Progressive Bankers group, said, "we don't consider it [the multibank issue] dead."

But getting the bill back for another House vote will be difficult. A motion to table the measure passed, 47-30. It would take a majority of the full House, 51 members, rather than a simple majority of those present, to reconsider the measure.

HB 194 would have permited a bank holding company to buy up to three banks a year, as long as it did not acquire more than 20% of the overall deposits in the state. Banks in existence for less than five years could not have been purchased.

Kentucky is one of only 10 states that does not have some type of law to permit banks to breach county lines. ■

Delaware . . .

Continued from page 2

bank subsidiaries would accept no domestic deposits other than certificates of deposit of at least $100,000. from non-individuals. The draft also proposed changes to the state banking code to permit international banking facilities to locate here.

Nathan Hayward 3d, acting director of the state's development office, said he thinks that limited-purpose investment and trust companies — one group of financial institutions dealt with under the proposed law — "may have a great deal more application for us" than some of the other financial activities contemplated in the draft.

The legislation should be constructed to attract outsiders while providing "adequate protection to Delaware's existing institutions," Mr. Hayward said.

Recent efforts by E.F. Hutton & Co., Inc., to set up a trust company in Delaware were thwarted by local bankers. But the New York firm is said to be negotiating with politicians and bankers for another try.

Mr. Hayward said that the state had had "serious inquiries" from two overseas banks and is meeting with another two. He declined to name the banks. ■

Pennsylvania . . .

Continued from page 2

one-half of their deposits for use in their home communities.

The other House change would bar the state from keeping deposits in banks that sought to circumvent Pennsylvania interest-rate ceilings on consumer loans.

This was amended by the Senate committee to apply to banks that "unlawfully" charge more than the ceilings.

The bill would allow bank holding companies to make acquisitions anywhere in the state. There is a limit

LEGAL ADVERTISING

Bank Call Notice

CONSOLIDATED REPORT OF CONDITION OF

Alaska Statutes

Title 6. Banks and Financial Institutions.

Chapter

01. Administration (§§ 06.01.010 — 06.01.050)
05. Alaska Banking Code (§§ 06.05.005 — 06.05.545)
10. Model Foreign Bank Loan Act (§§ 06.10.010 — 06.10.050)
15. Mutual Savings Bank Act (§§ 06.15.010 — 06.15.380)
20. Alaska Small Loans Act (§§ 06.20.010 — 06.20.920)
25. Trust Companies (§§ 06.25.010 — 06.25.350)
30. Alaska Savings Association Act (§§ 06.30.005 — 06.30.915)
35. Uniform Common Trust Fund Act (§§ 06.35.010 — 06.35.050)
40. Premium Financing Act (§§ 06.40.010 — 06.40.190)

Chapter 01. Administration.

Section

10. Examination fees and assessments
20. General powers of department
30. Orders and injunctions; notice and hearings; regulations
40. Examination policy
50. Definitions

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.01.010. Examination fees and assessments. (a) The expenses of the department reasonably incurred in the examination or investigation of all financial institutions or applications to establish financial institutions regulated by the department under this title shall be charged to and paid by each financial institution as provided in (b) of this section.

(b) The commissioner shall assess every financial institution, and every applicant to establish a financial institution, a fee for the actual expenses incurred by the department in connection with any examination or investigation, whether regular or special. The fee shall include the proportionate part of the salaries and cost of employee benefits of the examiners while conducting examinations or investigations and while preparing reports of them, and transportation costs and per diem of each examiner while away from his duty station. However, the cost to the financial institution in connection with an examination may not exceed $7,500 per examination. The assessment shall be made by the commissioner as soon as feasible after the

examination or investigation has been completed. All assessments shall be paid to and received by the department by each institution within 30 days after receipt of notice of the assessment.

(c) Any financial institution which fails to make the payments required by the commissioner under (a) and (b) of this section within the time specified is subject to a penalty of not more than $100 each day it is late. The penalty, together with the amount due under (a) of this section, may be recovered in a civil action brought by the department. (§ 42 ch 169 SLA 1978)

Sec. 06.01.020. General powers of department. The commissioner may by regulation authorize financial institutions, except licensees subject to ch. 20 of this title, to exercise any of the powers conferred upon a federally chartered bank, trust company, savings association, or other federally chartered institution doing business in this state which is subject to the regulations of the United States Comptroller of the Currency, the Federal Reserve Board, the Federal Home Loan Bank Board, the Federal Deposit Insurance Corporation or the successor or successors of them, if the commissioner finds that the exercise of the power both:

(1) serves the public convenience and advantage; and

(2) equalizes and maintains the quality of competition between state-chartered financial institutions and corresponding federally chartered financial institutions. (§ 42 ch 169 SLA 1978)

Sec. 06.01.030. Orders and injunctions; notice and hearings; regulations. (a) Whenever it appears to the commissioner that a person has engaged in an act or practice in violation of any provision of this title or of a regulation adopted under it, the commissioner may

(1) if he considers it to be in the public interest, issue an order directing the person to stop the act or practice; reasonable notice and an opportunity for a hearing must be given before issuing the order; however, the commissioner may issue a temporary order pending the hearing which remains in effect until 10 days after the hearing is held and which becomes final if the person to whom the notice is addressed does not request a hearing within 15 days after receipt of the notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this title or a regulation adopted under it; upon a proper showing, the department is entitled to the appropriate remedy, and a receiver or conservator may be appointed for the defendant or the defendant's assets; the commissioner is not required to post a bond.

(b) Except as provided in (a) of this section, the department shall give public notice of each proposed action, but it is not required to hold a hearing before taking the action unless it receives written opposition to the proposed action. Written opposition must be filed with the department within the time specified by the department. In cases

(e) The term "bank service corporation" means a corporation organized to perform bank services for two or more banks, each of which owns part of the capital stock of the corporation. (§ 8 ch 157 SLA 1970)

Legislative committee report. — For report on ch. 157, SLA 1970 (CSHB 643 (Judiciary)), see 1970 House Journal, p. 1085.

Sec. 06.05.232. Leasing of real and personal property. (a) The department may authorize a bank to become the owner and lessor of real or personal property acquired upon the specific request of and for the use of a customer, if

(1) the original lease is executed in writing before acquisition of the property to be leased;

(2) the terms of the lease require payment to the bank during the minimum period of the lease of an amount of money that will exceed the total expenditure by the bank for acquisition, ownership, maintenance and protection of the property;

(3) the total of the expenditures by the bank for acquisition, ownership, maintenance and protection of the leased property and other loans to any one lessee by the bank do not exceed the limits on loans to one borrower under § 205 of this chapter;

(4) in the case of real property, the lease agreement provides that upon its expiration the lessee will become owner of the property;

(5) Repealed by § 4 ch 56 SLA 1971.

(b) The aggregate investment in property under this section and §§ 230(1) and 231 of this chapter may not exceed the bank's combined capital, surplus and undivided profits.

(c) Payments by a lessee to a bank for property leased under this section are considered rent rather than interest.

(d) Real property retained by a bank upon termination of a lease authorized under this section, as the result of default by the lessee, shall be utilized or disposed of as provided by regulation of the department. (§ 9 ch 157 SLA 1970; am § 4 ch 56 SLA 1971)

Legislative committee report. — For report on ch. 157, SLA 1970 (CSHB 643 (Judiciary)), see 1970 House Journal, p. 1085.

Sec. 06.05.235. Bank holding companies. (a) It is unlawful for a company to own, control or hold with power to vote 25 per cent or more of the capital stock of one or more state banks or state bank holding companies subject to regulation under this chapter. Nothing in this subsection prohibits a company from qualifying as a bank holding company under (b) of this section. However, when it becomes a bona fide necessity to avoid loss for a creditor to accept shares of stock in one or more banks or bank holding companies constituting more than 25 per cent of the ownership or control of a bank or bank holding company in payment of indebtedness owing to the creditor, shares of stock may be

accepted, but the shares of the one or more banks or bank holding companies exceeding that 25 per cent shall be promptly disposed of under the supervision of the department.

(b) A domestic bank holding company, as defined in § 540 of this chapter and organized under AS 10.05, which maintains its principal office and place of business in the state and conducts its principal operations in the state, may acquire and own all or any portion of the voting shares or other capital stock of, or all or substantially all of the assets of, one or more banks or bank holding companies. The department may require a holding company to post a bond with the department in an amount equal to the paid-in capital and paid-in surplus represented by the proportion of bank stock directly or indirectly owned, held, or controlled by it under conditions the department may prescribe to assure full protection of the public. The holding company is subject to an examination by the department or a competent person designated by the department when the department considers it necessary, but not less than once each year. The holding company shall pay an examination fee in accordance with AS 06.01.010.

(c) The department may adopt regulations for bank holding companies to assure financially sound banking organization and practice.

(d) A person, or an officer, director, agent, or employee of the person, who violates a regulation adopted under (c) of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than $5,000, or by imprisonment for not more than one year, or by both; and in the case of a corporation, by a fine of not more than $10,000. (§ 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 1 ch 124 SLA 1966; am § 18 ch 218 SLA 1976; am § 16 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment, in this section as it existed prior to the 1978 amendment, deleted "of commerce" following "commissioner" at the end of the third sentence of subsection (a), in the first, second, and third sentences of subsection (b), and in subsection (c).

The 1978 amendment rewrote this section.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.238. Required directors' meetings and statements to the department. The department may require a meeting of the board of directors of a state bank to be held in the manner and at the time and place it directs, when, in the judgment of the department, a serious violation of this chapter is involved. Any report of an examination required or allowed by this chapter, any conclusions drawn from such an examination by the department, any recommendations made by the department relative to it, and any other matters concerning the operation and condition of the bank may be presented to the board of directors by the department. Each member of the board of directors

Effect of amendment. — The 1978 amendment, in the second sentence, substituted "conviction of a corporation for violation of this chapter" for "violation by a corporation" and increased the maximum fine from $5,000 to $20,000.

Editor's note. — Section 55, ch. 169, SLA 1978, contains a severability clause.

Sec. 06.05.525. Injunction. If a state bank fails to comply with the provisions of this chapter, or the regulations of the department, or is found by the department to be in an unsafe or unsound condition the result of which will cause substantial injury to the bank or to its depositors, creditors or stockholders, the superior court may, upon the suit of the department, issue an injunction restraining the violation and may issue an order prohibiting the transaction of all or any part of the bank's business until the circumstances upon which the suit is based no longer exist. (§ 3.510 ch 129 SLA 1951; am § 9 ch 63 SLA 1969)

Article 6. General Provisions.

Section		Section	
530.	Effect on existing banks	540.	General definitions
535.	Construction with subsequent legislation	545.	Short title

Sec. 06.05.530. Effect on existing banks. The charters of state banks existing on March 26, 1951, continue in full force and effect. All state banks and, to the extent applicable, all banks shall thereafter operate in accordance with this chapter. Any state bank, by filing an application for an amendment of its charter or for a merger, consolidation or sale of all, or substantially all, of its assets or the assets of any department of the bank under this chapter and its charter is thereafter subject to this chapter. (§ 1.104 ch 129 SLA 1951)

Sec. 06.05.535. Construction with subsequent legislation. No part of this chapter shall be considered to be impliedly repealed by subsequent legislation not specifically repealing it if that construction can be avoided. (§ 1.106 B ch 129 SLA 1951)

Effect of Business Corporation Act. — This chapter is in no way amended by the Alaska Business Corporation Act (AS 10.05). 1959 Op. Atty. Gen., No. 17.

On formation of banking corporation. — A banking corporation may lawfully be formed under the Alaska Business Corporation Act (AS 10.05). It is equally certain that a banking corporation may be formed under this chapter, since it has not been repealed in whole or in part by the Alaska Business Corporation Act. 1959 Op. Atty. Gen., No. 17.

Sec. 06.05.540. General definitions. As used in this chapter unless the context otherwise requires

(1) "action" in the sense of a judicial proceeding includes any proceeding in which rights are determined;

(2) "bank" means any person doing a banking business whether subject to the laws of this or any other jurisdiction;

(3) "banking" means the negotiation for and the discounting of promissory notes, drafts, bills of exchange and other evidences of indebtedness; receiving deposits, selling and buying exchange, coin, and bullion, and lending money on personal, real and other security, and other kindred financial operations;

(4) "branch bank" includes a branch bank, branch office, branch agency, additional office, or any branch place of business located in the state, at which deposits are received, checks are paid, or money is lent;

(5) "commissioner" means the commissioner of commerce and economic development or his designee;

(6) "community" means a city, town, unincorporated village, or, in absence of any one of the foregoing, a trade area;

(7) "court" means a court of competent jurisdiction;

(8) "department" means the Department of Commerce and Economic Development;

(9) "domestic bank holding company" means a domestic corporation that is organized under AS 10.05 and that has control over a bank or another domestic bank holding company through one of the following:

(A) the company directly or indirectly or acting through one or more other persons owns, controls, or has power to vote 25 per cent or more of any class of voting securities of the bank or company;

(B) the company controls in any manner the election of a majority of the directors or trustees of the bank or company; or

(C) the department determines, after notice and opportunity for hearing, that the company directly or indirectly exercises a controlling influence over the management of policies of the bank or company.

(10) "executive officer" when referring to a bank, means the president, vice president, treasurer, cashier, comptroller and secretary, or any person who performs the duties appropriate to those offices or any person designated in the bylaws as an executive officer;

(11) "fiduciary" means trustee, agent, executor, administrator, committee, guardian or conservator for a minor or other incompetent person, receiver, trustee in bankruptcy, assignee for creditors or any holder of a similar position of trust;

(12) "good faith" means honesty in fact in the transaction and some reasonable ground for belief that the transaction is rightful or authorized;

(13) "item" means any instrument for the payment of money negotiable or nonnegotiable but does not include money;

(14) "officer" when referring to a bank means any person designated as an officer in the bylaws and includes, whether or not so designated, any executive officer, the chairman of the board of directors, chairman of the executive committee, and any trust officer, assistant vice president, assistant treasurer, assistant cashier, assistant comptroller, or other person who performs the duties appropriate to those offices;

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Section
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(15) "reason to know" means that upon the information available a person of ordinary intelligence in the particular business, or of the superior intelligence or experience which the person in question may have, would infer that the fact in question exists or that there is a substantial chance of its existence that, if exercising reasonable care with reference to the matter in question, conduct would be predicated upon the assumption of its possible existence;

(16) "state bank" means any bank chartered by this state;

(17) "undivided profits" means the accumulated, undistributed net profit of a bank, including any residue after

(A) provision for payment of taxes and expenses of operations,

(B) transfers to reserves allocated to a particular asset or class of assets,

(C) losses estimated or sustained on a particular asset or class of assets in excess of the amount of reserves allocated for it,

(D) transfers to surplus and capital,

(E) amounts declared as dividends to stockholders;

(18) "company" means any bank, corporation, partnership, joint stock company, business trust, association or similar organization, domestic or foreign. (§§ 1.102, 1.103 ch 129 SLA 1951; § 3.167 ch 129 SLA 1951; am § 1 ch 194 SLA 1959; am § 1 ch 139 SLA 1961; am § 1 ch 53 SLA 1962; am § 7 ch 56 SLA 1971; am § 19 ch 218 SLA 1976; am §§ 39, 40, 43 ch 169 SLA 1978)

Effect of amendments. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (5) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (8).

The 1978 amendment added "or his designee" to the end of paragraph (5), rewrote paragraph (9), and added paragraphs (17) and (18).

Editor's notes. — Section 8, ch. 56, SLA 1971, provides: "Any branch or limited banking facility operating under a charter from the State of Alaska on January 1, 1971, is a duly chartered branch."

Section 55, ch. 169, SLA 1978, contains a severability clause.

Applicability of Alaska Banking Code to building and loan associations. — See American Bldg. & Loan Ass'n, Inc. v. State, Sup. Ct. Op. No. 112 (File No. 149), 376 P. (2d) 570.

Commissioner subject to provisions of Administrative Procedure Act. — The Administrative Procedure Act (AS 44.62) provides that the commissioner shall be subject to its provisions. 1960 Op. Atty. Gen., No. 7.

Sec. 06.05.545. Short title. This chapter may be cited as the Alaska Banking Code. (§ 1.101 ch 129 SLA 1951)

Chapter 10. Model Foreign Bank Loan Act.

Section
10. Exemption of foreign banks from laws and taxation
20. Authorized activities
30. Filing statement

Section
35. [Transferred]
40. Definitions
50. Short title

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 756
Title An Act relating to the ownership of financial institutions
Requested by Labor and Commerce Date 2/18/82

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	Ø	Ø				
200 TRAVEL	Ø	Ø				
300 CONTRACTUAL	Ø	Ø				
400 COMMODITIES	Ø	Ø				
500 EQUIPMENT	Ø	Ø				
600 LAND & STRUCTURES	Ø	Ø				
700 GRANTS,CLAIMS,ETC.	Ø	Ø				
TOTAL	Ø	Ø				

FUNDING (Thousands of Dollars)

GENERAL FUND	Ø	Ø				
FEDERAL FUNDS	Ø	Ø				
OTHER (Specify Source)	Ø	Ø				

POSITIONS

FULL TIME	Ø	Ø				
PART TIME	Ø	Ø				
TEMPORARY	Ø	Ø				

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

Willis F. Kirkpatrick

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Banking, Securities, Sm. Loans, & Corp.
PHONE 465-2521

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SB
757

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUNSET PROCEDURES:

Boards and commissions expire on the date set out in statute, however, upon termination, a board or commission shall continue its existence until June 30th of the succeeding year for the purpose of concluding its affairs.

1) Before termination, continuation, or re-establishment of a board:

A. Committee of reference of each house shall hold one or more hearings with attendance by:
   1. Commissioner of the Dept having administrative responsibility
   2. Members of the board
   3. Interested public

B. Not later than the 60th day (11 March 1982) of the legislative session, the committee of reference shall submit a report to the presiding officer of the house. The report shall contain:
   1. A summary of the findings of the committee
   2. The recommendations of the committee

C. The committee of reference may introduce a bill for the continuation or reorganization of the board or commission. Only one board may be addressed in each bill, and the term of continuation may not exceed 4 years.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUNSET REPORTS:

A summary of the findings and recommendations of the committee shall be submitted to the presiding officer of the house by the 60th day of the legislative session. The report shall contain the following:

1) The extent to which the board has operated in the public interest

2) The extent to which the operation of the board has been impeded or enhanced by exisitng statutes, procedures, and practices adopted.

3) The extent to which the board has recommended statutory changes in the public interest

4) The extent to which the board has encouraged interested persons to report to it, concerning the effects of its regulations and decisions.

5) The extent to which the board has encouraged public participation in making its decisions and regulations.

6) The efficiency with which the board has handled public inquiries or complaints.

7) The extent to which the board regulating occupational entry has presented qualified applicants to the public.

8) The extent to which State personnel practices have been complied with

9) The extent to which statutory, budgetary, or regulatory changes are necessary to best serve the public.

Official Business

Alaska State Legislature

Senate

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SUNSET REPORTS (continued):

3) An identification of other boards having duplicate objectives

4) An assessment of alternative methods for achieving the purposes of the board

5) An assessment of the consequences of eliminating the board

6) A justification for the continuation of the board

7) Any information, which in the judgement of the committee, would improve the performance of the board

8) The committee may introduce a bill to effect the continuation or reorganization of the board.

WELDING EXAMINERS, BOARD OF
(AS 08.99.010-101) 7 members appointed by the Governor from a list of persons prepared by the Alaska Chapter of the American Welding Society and the Alaska Society of Professional Engineers and submitted at least 30 days before the expiration of a term and not more than 60 days after a vacancy occurs in an unexpired term. The list shall contain not less than two recommended candidates for each appointment. The Governor shall make appointments within 30 days after receiving list. Confirmed by Legislature; 5-year term.

MEMBERS	REPLACING	APPT.	TERM
Mr. Philip B. Davis 986 N. Coppet Fairbanks, Alaska 99701 (Engineer)	Reappointed	79/07/18	83/12/16
Mr. George A. Fox Union Chemical Division Box 575 Kenai, Alaska 99611 (Engineer)	Richard Schneider	79/07/18	83/12/16
Mr. Donald Delk SRA Box 372-C Anchorage, Alaska 99507	Reappointed	81/02/02	85/12/16
Mr. Donald Lockman 2114 Railroad Avenue Anchorage, Alaska 99501 (Chairman 79/07/18)		78/03/16	81/12/16
Mr. Peter Millar 4047 Kingston Drive Anchorage, Alaska 99504 (Engineer)	Reappointed	80/03/11	84/12/16
Kenneth C. Lomax ARCO Oil & Gas Co. General Engineering P.O. Box 6015 Anchorage, AK 99502	Tim Farrell (effective 80/03/11)	81/01/19	83/12/16
Mr. J. C. Wingfield 495 Sprucewood Road Fairbanks, Alaska 99701	Reappointed	78/03/16	82/12/16

CONTACT AGENCY:
Division of Occupational Licensing
Department of Commerce & Economic Development

(2) a statement, to the extent practicable, of the objectives of the program of the board, commission, or agency program, and its anticipated accomplishments;

Finding:

To assure the public of high standards of dental care by professionals in the State.

(3) an identification of any other programs having similar, conflicting or duplicate objectives;

Finding:

There are no similar or conflicting programs.

(4) an assessment of alternative methods of achieving the purposes of the program.

Finding:

Licensure and discipline could be turned over to the Division of Public Health. At this time this step is not practicable. Another alternative is to leave licensure and discipline to the professional associations, but there is no indication that this would work better or save money.

(5) an assessment of the consequences of eliminating the board, commission or program and consolidating its activities with another program, or of funding it at a lower level.

Finding:

The board is necessary to guarantee professional competency. Reduced funding would reduce frequency of meetings, endangering the testing, investigative and regulatory functioning of the board.

(6) a justification for the recommended continuation or extension of the board, commission or program, and an explanation of the manner in which it avoids duplication of or conflict with other efforts;

Finding:

There would be no guarantee of public protection if licensing were eliminated. For example, there have been 38 complaints filed since July 1978. Duplication or conflict with other efforts is precluded by the statutory prescription of the Board's authority.

(7) any other information which, in the opinion of the committee, would improve the performance of the board, commission or agency with respect to its representation of and responsiveness to the public interest.

Finding:

The board has promulgated continuing competency regulations in compliance with prior audit recommendations. Elimination of temporary licenses for

rural areas will be accomplished through legislation introduced by the Committee.

The Health, Education, and Social Services Committee finds that:

1. The Board of Dental Examiners should be continued.

2. The Board should continue the improvement it has shown since the sunset review in 1978.

3. The Alaska Dental Society should cooperate with the Board in conducting the clinical portion of the dental examination, in order to lessen the work load on Board members.

4. The Board should develop and submit a revised Dental Practice Act.

Charles H. Parr, Chairman

Mike J. Colletta

Terry Stimson

Tim Kelly

Vic Fischer

SB 757

The following letter dated March 10 was received from Senator Mulcahy, Chairman, Senate Labor and Commerce Committee: "The Senate Labor and Commerce Committee has had the Board of Welding Examiners under consideration for "sunset" review pursuant to your referral under AS 44.66.050 and AS 08.03.010.

In accordance with the statutory requirements, a public hearing was held on the review of the board, and members of the board and interested members of the public provided the committee with testimony. The committee received both oral and written testimony and examined the performance audit of the activities of the board prepared by the Legislative Audit Division. Guided by the above, the committee took into consideration the factors required to be considered under AS 44.66.050(c).

The Committee feels it has adequately addressed the recommendations and categories required under AS 44.66.050(d), and recommends that the Board of Welding Examiners be continued for another four years, and that the repealer with regard to the activities of the board be amended to read 30 June 1985.

Senate bill 757 has been introduced by the Senate Labor and Commerce Committee to implement the recommendations of this report.

Introduced: 2/15/82
Referred: Labor & Commerce

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

SENATE BILL NO. 757

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act continuing the existence of the Board of Welding Examiners; and providing for an effective date."

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

* Section 1. AS 08.03.010(c)(13) is amended to read:

(13) Board of Welding Examiners (AS 08.99.010) -- June 30, 1985 [1981].

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

(9) Repealed by § 42 ch 167 SLA 1980.

(10) Repealed by § 2 ch 153 SLA 1980.

(11) Repealed by § 13 ch 52 SLA 1981.

(c) The following boards have the termination date provided by this subsection:

(1) Board of Nursing (AS 08.68.010) — June 30, 1983.

(2) Board of Chiropractic Examiners (AS 08.20.010) — June 30, 1984.

(3) Board of Examiners in Optometry (AS 08.72.010) — June 30, 1984.

(4) Board of Pharmacy (AS 08.80.010) — June 30, 1984.

(5) Board of Dispensing Opticians (AS 08.7[illegible].010) — June 30, 1985.

(6) Board of Dental Examiners (AS 08.36.010) — June 30, 1982.

(7) Board of Veterinary Examiners (AS 08.98.010) — June 30, 1985.

(8) State Physical Therapy Board (AS 08.84.010) — June 30, 1986.

(9) Board of Nursing Home Administrators (AS 08.70.010) — June 30, 1986.

(10) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) — June 30, 1982.

(11) State Medical Board (AS 08.64[illegible].010) — June 30, 1983.

(12) Board of Marine Pilots (AS 08.6[illegible]) — June 30, 1983.

(13) Board of Welding Examiners (AS [illegible].010) — June 30, 1981.

(14) Board of Electrical Examiners (AS [illegible]0.010) — June 30, 1982.

(15) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) -- June 30, 1984.

(16) Board of Barbers and Hairdressers (AS 08.13.010) — June 30, 1984.

(17) Board of Public Accountancy (AS 08.04.010) — June 30, 1984.

(18) Real Estate Commission (AS 08.88.011) — June 30, 1982.

(19) Board of Governors of the Alaska Bar Association (AS 08.08.040) — June 30, 1985.

(20) Guide Licensing and Control Board (AS 08.54.010) — June 30, 1982.

(d) Repealed by § 3 ch 74 SLA 1979.

(e) Repealed by § 3 ch 74 SLA 1979. (§ 2 ch 149 SLA 1977; am §§ 1, 3 ch 74 SLA 1979; am §§ 1, 3 ch 36 SLA 1980; am §§ 1, 3 ch 37 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; and §§ 1, 3 ch 39 SLA 1980; am §§ 1, 3 ch 40 SLA 1980; am §§ 1, 3 ch 41 SLA 1980; am §§ 1, 3 ch 42 SLA 1980; am §§ 1, 2 ch 43 SLA 1980; am §§ 1, 3 ch 67 SLA 1980; am §§ 10, 11 ch 71 SLA 1980; am §§ 6, 7 ch 72 SLA 1980; am §§ 2, 15 ch 82 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; am §§ 1, 3 ch 39 SLA 1980; am §§ 1, 2 ch 153 SLA 1980; am §§ 2, 5 ch 159 SLA 1980; am §§ 41, 42 ch 167 SLA 1980; am §§ 1, 13 ch 52 SLA 1981; am §§ 1, 2 ch 53 SLA 1981)

bring an action in the superior court to enjoin the act and to enforce compliance with § 120 of this chapter. (§ 1 ch 91 SLA 1963)

Article 4. General Provisions.

Section
250. Definitions

Sec. 08.98.250. Definitions. In this chapter

(1) a person who practices veterinary medicine, surgery, or dentistry is one who does any of the following:

(A) appends to his name a title or abbreviation indicating to the public that he is a veterinarian;

(B) for compensation, diagnoses or treats diseases, injuries, or deformities of domesticated animals;

(C) holds himself out to the public as one who diagnoses or treats diseases, injuries, or deformities of domesticated animals;

(D) maintains premises for receiving, examining, and treating a domesticated animal for compensation;

(2) "board" means the Board of Veterinary Examiners;

(3) "department" means the Department of Commerce and Economic Development. (§ 1 ch 91 SLA 1963; am § 60 ch 218 SLA 1976)

Revisor's note (1973). — In light of the 1966 amendment of AS 08.98.010, "Veterinarian" has been changed to "Veterinary" in paragraph (2) of this section.

Effect of amendment. — The 1976 amendment substituted "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (3).

Chapter 99. Board of Welding Examiners.

Section
10. Creation and membership of board
20. Term of office
30. Source of appointments
40. Removal from office
50. Qualifications of board members
60. Meetings
70. Quorum
80. Powers and duties of the board
90. Applicability of Administrative Procedure Act
100. Expenses
110. Codes
120. Penalty

Sec. 08.99.010. Creation and membership of board. There is created the Board of Welding Examiners, consisting of seven members appointed by the governor. (§ 1 ch 151 SLA 1968)

Sec. 08.99.020. Term of office. Board members serve a term of five years. However, of the members first appointed, one shall be appointed for a term of one year, one for two years, one for three years, one for four years, and three for terms of five years. (§ 1 ch 151 SLA 1968)

Sec. 08.99.030. Source of appointments. The governor shall appoint board members from a list of persons prepared by the Alaska Chapter

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982 AS-13779

Senator Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska State Bill 757 - Concerning the Continuance of the Board of Welding Examiners

Dear Senator Mulcahy:

In reference to the above mentioned legislation, I am writing to voice my views and concerns. With over 14 years experience in the industrial construction and oil & gas industry of which the last 7 have been with the Prudhoe Facilities Project, I feel a need to address this issue. I presently hold an Alaska Welding Inspectors License and basically agree with the concept of this program and the laws that govern it. However, being directly involved with welding and piping inspection as my primary responsibility, I do not entirely agree with the acceptance criteria for persons applying for licensing approval, along with appointees of the Board itself. The basic concept of the Welding Board, made up of members of the industry, is a good one; the majority members of most design code committees are representatives of the industry they are policing.

The integrity of the facilities that industry is constructing is dependent upon it's own ability to police itself. In light of the fact that the State is facing a probable increase in major construction projects where critical welding could be a volatile area of concern, to abolish the Board now would be a mistake.

The obvious alternative for monitoring this activity would be for the State to establish a welding board or bureau under the Department of Labor. The citizenry of the State of Alaska are far more attuned toward a decrease in government bureaucracy than to create another taxing organization.

The simple economics of the issue show that there is no way that government can compete with private industry to attract the most qualified personnel. For the State to get into the business of policing the welding industry other than in specific areas, I think would be a practical and economic failure.

With some changes to policy and conditions of appointment, the Welding Board as it is now could be our least costly and most effective vehicle to guard against any major distractions like those that plagued the Alyeska Pipeline project.

ARCO Oil and Gas Company is a Division of AtlanticRichfieldCompany

Thank you for your time and consideration of these views.

Sincerely,

John P. Rosen
Quality Assurance
Acting for ARCO Alaska, Inc.

cc: D. F. Harbour - Government Relations
B. Ward - Government Relations

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 3868

March 7, 1982

AS-13797

Senator Bob Mulcahy
Alaska State Senate
Pouch V
Juneau, Alaska 99811

SUBJECT: Alaska Senate Bill 757, an Act Concerning the Continuance of the Board of Welding Examiners

Dear Senator Mulcahy:

The purpose of this letter is to express ARCO Oil and Gas, Prudhoe Facilities Project Group's position regarding Senate Bill 757.

We support the passage of this bill for the following reasons:

1. The Welding Board is comprised of members of private industry. Private industry therefore plays an active role in formulating and enforcing welding regulations through this Board.

2. Killing of Alaska State Senate Bill 757 would likely move jurisdiction of enforcement of welding qualification regulations to the Department of Labor. This, in turn, would create the need for added personnel in the department to carry out the duties of the current Welding Board and private industry. This would impose additional financial drains from State revenues and duplicate more than adequate industry efforts.

3. The movement of control to the Department of Labor would require the hiring of highly competent, highly qualified individuals within the Department of Labor to enforce the welding regulations. The hiring of these individuals would further deplete the supply of these highly qualified persons from the private sector.

In summary, ARCO supports the passage of Alaska State Bill 757. The Bill's passage would maintain the current Board of Welding Examiners. It would preclude the need for assumption of welding regulations by the Department of Labor and reduce costs that would be incurred by the State. Further, it would serve to reduce competition with the current competent private petroleum industry and construction contractors.

Thank you for your time and consideration in considering our opinion to this very important matter.

Quality Assurance & Safety Director

Construction Support Director

Administration & Planning Director

Resident Construction Manager

ARCO Oil and Gas Company
Prudhoe Facilities Project Group
3201 "C" Street, Suite 560
Anchorage, Alaska 99503
Telephone 907 276 1868

March 6, 1982 AS-13778

The Honorable Bob Mulcahy (R)
Alaska State Senate
Alaska State Capitol
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Subject: Alaska Senate Bill 757, Act Concerning the Continuance of Board of Welding Examiners.

With the impending vote on the Alaska Senate Bill 757, which calls for the continuance of the Board of Welding Examiners, I wish to voice my views on this bill. I currently hold an Alaska State Welding Inspector's license and have actively been involved in the welding field for thirteen years, with seven of the thirteen years spent on the North Slope working for the petroleum industry.

I am in favor of the continuance of the Alaska Board of Welding Examiners as set fourth by the State of Alaska, Regulation 12AAC72. The main argument for continuing the Board is:

The present regulation, 12AAC72, as it is currently structured, allows private industry, through the selection of appointed members by the Governor, to enforce and carry out guidelines set down in the State Welding Regulations. This approach is:

1. Cost effective to the State, due to the fact that policing to assure compliance, is borne by current revenues from licensing fees. On the other hand, if the Welding Board were abolished, it is likely that the Department of Labor would be empowered to enforce state welding regulations. Thus, additional "Qualified" Department of Labor welding inspection personnel would have to be employed to assure statutory compliance. This would require additional state revenues to operate at a time when state budgetary cuts are necessary.

2. Historically, the more qualified welding personnel have been employed in the private sector due to economics. Therefore, it is questionable whether a state board or bureau under the Department of Labor could operate more effectively than the currently appointed board.

3. Private Industry, especially the petroleum industry, must meet several code requirements and parameters (A.P.I., A.N.S.I., ASME) as it relates to welder qualifications and welding inspector qualifications during construction as well as maintenance operations. Here, again, these codes are the result of the public sector and industry in the adoption and their enforcement.

4. Lastly, the public who are intimately involved in the welding field take a professional approach in assuring that proper welding practices, code requirements, company specifications, and State and Federal regulations are adherred to.

The State of Alaska Board of Welding Examiners has done a thorough job in creating and adopting the current regulations, and to abolish this existing board and set up a State regulated and operated bureau or board, would serve no useful purpose.

Thank you for your time and consideration on this matter.

Sincerely,

David H. Derrer

David H. Derrer
Quality Assurance Engineer

DHD:yms

cc: Dave Harbour -- Government Relations, Juneau
Bev Ward - Government Relations, Juneau

SB

771

Alaska
Seafood
Marketing
Institute

526 Main Street Juneau, Alaska 99801 (907) 586-2902



"Promoting Alaska's Finest Resource"

March 10, 1982

TO: The Senate Labor and Commerce Committee:
Senator Robert Mulcahy, Chairman;
Senators Nels Anderson, Jr., Bettye Fahrenkampf, Pat Rodey and
Richard Zeigler.

FROM: Eric Eckholm, Executive Director
Alaska Seafood Marketing Institute

RE: csSB771

The Alaska Seafood Marketing Institute would like to express its support for the committee substitute for Senate Bill 771. The proposal to exempt restaurants, grocery stores and retail fish markets from provisions requiring a special bond from businesses which purchase fish directly from the fishermen should provide a stimulus to growth of fresh seafood marketing within Alaska.

The bond required by the Department of Labor exists for the purpose of protecting the fisherman making substantial deliveries of product to a processor or other buyer. The committee substitute clarifies the intent of the bonding requirement, and will make it easier for fishermen and retailers to reach a greater percentage of the potential in-state market for fresh seafood.

It is clear that this bill would benefit the fishing industry in Alaska, would eliminate provisions that merit the appellation of "red tape" from the standpoint of the retailer or restauranteur; and would probably result in a time savings for employees of the Department of Labor who could devote more attention to their drive to enforce the bonding requirement for large-scale buyers and processors. We urge you to recommend passage of the bill to the entire Senate.

Sen. Mulcahy
Sm 119

Hein ✓

Original sponsor: Eliason

BY THE LABOR AND COMMERCE COMMITTEE

IN THE SENATE

CS FOR SENATE BILL NO. 771 (L&C)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act exempting restaurants, grocery stores, and established fish markets from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

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

* Section 1. AS 16.10 is amended by adding a new section to read:

Sec. 16.10.293. EXEMPTIONS FROM BONDING REQUIREMENT. (a) Restaurants, grocery stores, and established fish markets are exempt from the bonding requirement of AS 16.10.290 - 16.10.295.

(b) For purposes of this section

(1) "established fish market" means a market maintained in a permanent structure exclusively for the sale of ~~fish~~ seafood to the general public at retail;

(2) "grocery store" means a store maintained for the sale of food products exclusively to the general public at retail;

(3) "restaurant" includes a place maintained for the sale and on-premise consumption of food, and a street vendor who sells food prepared for immediate consumption.

* Sec. 2. This Act takes effect immediately in accordance with AS 01.10.-070(c).

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Current Statutory Requirement for Restuarants Classified as a "Fisheries Business" (as a primary fish buyer):

1) Must file an "intent to operate " statement with the Department of Fish and Game
2) Must file weekly fish tickets with the Department of Fish and Game
3) Must post a $10,000 bond with the Department of Labor
4) Must obtain a "fisheries business license" from the Department of Revenue
5) Must file a surety bond or prove lienable property or prepay the tax to the Department of Revenue
6) Must pay the raw fish tax to the Department of Revenue

Bill No. Senate Bill 771

Date March 10, 1982

Title "An Act excluding restaurants from the labor bond required of fish processors and primary fish buyers; and providing for an effective date."

Contact: Dale Cheek
465-4870
Judy Knight
465-2700

Senate Bill 771 exempts "restaurants" from the bonding requirements in AS 16.10.290 - 16.10.295 and further defines "restaurant." The retail business sector has not presented a problem to the department in enforcement of AS 16.10.290 - 16.10.290. Claims for recovery of employee wages have and can be pursued through Title 23 for retail employees.

The "restaurant" is generally an established fixed business and the worker or fisherman would have ready access or other recourse to recover wages or be paid for fish sold. The street vendor generally is a self employed individual and we are informed that it is a considerable financial burden on such small operators to acquire the necessary bonding.

The exemption provided by this bill could be expanded to include retail outlets who are a fixed establishment. A similar bill (House Bill 744) would exempt all retail fish vendors and poses some concerns for those vendors who relocate frequently and sell from vans or trucks. Chapter 18, SLA 1981 provides an exemption for those operations that do not purchase fish or hire employees.

This bill would have no fiscal impact on the department.

The Department of Labor supports passage of this bill.

POSITION PAPER/Department of Labor

ALASKA STATE LEGISLATURE - SENATE

SENATOR RICHARD I. ELIASON
P.O. BOX 143
SITKA, ALASKA 99835

POUCH V
JUNEAU, ALASKA 99811

COMMITTEES
FINANCE
RESOURCES
STATE AFFAIRS

February 23, 1982

M E M O R A N D U M

To: Senator Bob Mulcahy, Chairman
Senate Labor and Commerce Committee

From: Senator Dick Eliason

Re: Senate Bill 771

I recently introduced S.B. 771 which would exclude restaurants from obtaining the labor bond which is required of fish processors and primary fish buyers. The bill has been referred to the Labor and Commerce Committee and I would appreciate you scheduling a hearing for it.

Under current statute a restaurant is classified as a primary fish buyer and as a fisheries business as it is the entity "who first actually and physically processes the fishery resource" (AS 43.75.015 (c)) by cooking it. Therefore restaurants must go through all of the procedures to meet requirements for processors. These include filing an "intent to operate" statement with the Fish and Game Department, filing fish tickets with the Fish and Game Department each week, posting a $10,000 labor bond with the Labor Department, obtaining a "fisheries business license" from the Revenue Department, filing a surety bond or prove lienable property or prepay the tax to the Revenue Department, and must file and pay this raw fish tax to the Revenue Department.

Obviously these are a lot of "hoops to jump through" for a restaurant which simply wants to include fresh seafood on its menu. It is evident to anyone who dines at Alaskan restaurants that it is often difficult to find fresh Alaskan seafood offered. My goal with S.B. 771 is to encourage the availability of good fresh seafood to Alaskans and to visitors to our state.

It is apparent when studying the various requirements for restaurants that the one which is the least necessary and by far the most costly and difficult is the labor bond. The other steps have some justification (management data from fish tickets, payment of the raw fish tax as these fish would go untaxed otherwise, and so on). However, the labor bond is meant to protect fishermen and cannery workers from fly-by-night fish buyers and seasonal operators who might buy fish or hire labor and leave without paying them. This is unnecessary for restaurants and is made even more ridiculous as restaurants already must meet labor protection requirements whether they buy fish or not. The labor bond is also very expensive to obtain, particularly for a small operation.

Currently the Department of Labor does not even bother to enforce the labor bond requirement for restaurants as they feel restaurants buy only small quantities of raw fish and are not likely to default to fishermen. The risk involved with breaking the law, however, may be enough to make some restaurants avoid offering fresh fish. Others, because they can't afford to buy the labor bond, may buy and serve fish but fail to do any of the required steps including paying the rawfish tax. Therefore, the State loses the revenue on the fish which are sold in restaurants.

I believe that the cost of the raw fish tax to a restaurant is so minimal that most would not mind remaining in compliance with all of the tax and paperwork requirements if the one which is the big financial burden, the labor bond, were removed.

Again, my goal is to encourage the availability of fresh Alaskan seafood to the consumer and provide a market alternative to fishermen. I believe we can meet our goals of encouraging availability of seafood, improving compliance with the necessary and purposeful paperwork and tax requirements and simplifying the permitting process by eliminating the labor bond requirement for restaurants.

chapter is grounds for suspension of a fishing license or permit by the Department of Fish and Game. (§ 2 ch 33 SLA 1962)

Article 6. Purchase of Fish.

Section
270. Purchase of fish by the pound
280. Price disputes between fishermen and fish processors
290. Security for collection of wages and payment for raw fish
292. Filing evidence of compliance
294. Suspension and revocation of license
296. Definitions

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique which will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than $5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "fish processor or primary fish buyer" for "primary buyer" near the beginning of subsection (a).

Legislative committee report. — For report on ch. 34, SLA 1969 (CSHB 40 am S) see 1969 House Journal, p. 142.

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 30 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970)

Revisor's note (1970). — In ch. 242, SLA 1970, AS 16.10.280 was incorrectly designated AS 16.10.290.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

(b) The amount of the bond shall be $10,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years; if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

(c) A person applying for a license as a fish processor or primary fish buyer who has less than $10,000 in lienable property in the state, with proof of the property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. No bond is required if the fish processor or primary fish buyer has more than $10,000 in lienable property as specified in this subsection.

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with §§ 290 — 296 of this chapter, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the right of a person having a claim under §§ 270 — 296 of this chapter against a fish processor or primary fish buyer to bring suit upon the bond, cash deposit or other security in his own right, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

(f) If the surety on the bond desires to cancel the bond, he may do so by giving the commissioner written notice of his intention to cancel. The cancellation is effective 30 days after the notice is delivered to the commissioner.

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch. 102 SLA 1977)

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to §§ 270 — 296 of this chapter shall initially file evidence of his compliance with the bonding requirements of §§ 290

— 296 of this chapter, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in § 290 of this chapter, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(b) If a bonding company cancels its bond of a fish processor or primary fish buyer, the fish processor's or primary fish buyer's license shall be revoked. He may again obtain a license by complying with the requirements of this chapter.

(c) If a licensed fish processor or primary fish buyer fails to fulfill his obligations as set out in § 290 of this chapter, his license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions his license may be permanently revoked.

(d) Proceedings to suspend or revoke a license are governed by the Administrative Procedure Act (AS 44.62).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of §§ 270 — 296 of this chapter, he shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or his representative, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

Sec. 16.10.296. Definitions. In §§ 270 — 296 of this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of labor;

(2) "fish" means any species of aquatic fin fish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state;

(3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;

(4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any raw

Effective dates. — Section 4, ch. 18, SLA 1981, makes this section effective June 3, 1981, in accordance with AS 01.10.070(c).

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 120 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970; am § 1 ch 59 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "120" for "30" near the middle of the section.

Sec. 16.10.291. Waiver of bonding requirement. The commissioner may, after investigation, grant a waiver from the bonding requirement of AS 16.10.290 — 16.10.296 for those operations that do not purchase fish or hire employees. (AS 16.10.292(b); § 2 ch 18 SLA 1981)

Effective dates. — Section 5, ch. 18, SLA 1981 makes this section effective December 31, 1981.

Editor's notes. — This section was enacted as AS 16.10.292(b) and was renumbered by the revisor of statutes under AS 01.05.031(b).

Sec. 16.10.295. Penalty. A person who is required to obtain the bond required by AS 16.10.290 — 16.10.296 and fails to obtain that bond is guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense. (§ 3 ch 18 SLA 1981)

Cross references. — As to sentences for misdemeanors, see AS 12.55.135.

Effective dates. — Section 4, ch. 18, SLA 1981, makes this section effective June 3, 1981, in accordance with AS 01.10.070(c).

Article 7. Commercial Fishing Loan Act.

Section
310. Powers of the department
320. Limitations on loans
330. [Repealed]
333. Loans for purchase of Alaska limited entry permits
335. Default and foreclosure
337. Deficiencies and transfer of entry permits after foreclosure
338. Entry permits as collateral
339. Regulations
342. Special account established
360. Definitions

Sec. 16.10.310. Powers of the department. (a) The department may (1) make loans to

SB

775

(i) In this section:

(1) "loan insurance commitment fee" means a fee which is a percentage of the principal amount of a loan to be insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account;

(2) "loan insurance premium" means an annual insurance premium which is a percentage of the portion of the unpaid principal amount of a loan insured under this section determined by the authority to be actuarially sound for the operation of the loan insurance account or any subaccount.

(j) Notwithstanding (a) — (i) of this section, the authority may establish additional insurance accounts to secure special obligation bonds, and may pay into an insurance account established under this subsection money made available from an appropriation or any other source. An insurance account established under this subsection is not subject to the requirements of (d) and (g) of this section.

(k) A loan may not be insured from a loan insurance account within the enterprise development fund if the loan is for a project the cost of which exceeds $10,000,000.

(*l*) A loan in excess of $1,000,000 may not be insured from a loan insurance account within the enterprise development fund unless at least 20 percent of the principal amount of the loan is retained by a federal or state chartered financial institution or the Alaska Commercial Fishing and Agriculture Bank. (§ 65 ch 106 SLA 1980; am § 39 ch 115 SLA 1981)

Effect of amendments. The 1981 amendment, effective July 28, 1981, added subsections (j) — (*l*).

Sec. 44.88.158. Small enterprise loan account. (a) A small enterprise loan account is established in the enterprise development fund. The account may be composed of money or assets appropriated or transferred to the authority, interest on investments and loans of the small enterprise loan account, the unpledged income of the enterprise development fund, and other money or assets deposited in it by the authority.

(b) The authority may use money in the small enterprise loan account to purchase the guaranteed portion of a loan made by a private financial institution after June 30, 1981, to a small enterprise to pay the cost of a project, as defined in AS 44.88.220, if the loan is guaranteed by the United States or an agency or instrumentality of the United States, including, but not limited to, the Small Business Administration, the National Marine Fisheries Service, and the Farmers Home Administration.

(c) The authority may purchase loans originated by the Alaska Rural Rehabilitation Corporation which are made to agricultural en-

terprises. Loans purchased under this subsection may be secured by substitute collateral if the amount of the loan does not exceed 75 percent of the value of the total collateral for the loan. Loans may be purchased under this subsection only from money appropriated to the small enterprise loan account for that purpose. (§ 65 ch 106 SLA 1980; am § 40 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, rewrote this section.

Editor's notes. — Section 50, ch. 115, SLA 1981, provides: "MULTI-FAMILY DWELLING ENTERPRISES. (a) Until July 1, 1982, the Alaska Industrial Development Authority may use the assets of the small enterprise loan account established under AS 44.88.158 to purchase a loan made to a project applicant, as defined in AS 44.88.220, for a multi-family dwelling enterprise. Loans may be purchased under this section only from money appropriated to the small enterprise loan account for that purpose.

"(b) A loan purchased under this section may not exceed $3,000,000 or $50,000 for each dwelling unit of a multi-family dwelling enterprise, whichever is less.

"(c) The interest rate on the portion of a loan purchased by the Alaska Industrial Development Authority for a multi-family dwelling enterprise shall be one percent more than the interest rate, as determined under AS 18.56.098(g)(1) and (2), on a mortgage loan purchased under AS 18.56.098(g) or (h) from the proceeds of the most recent issue of taxable bonds before the loan purchased for a multi-family dwelling enterprise.

"(d) A loan may not be purchased under this section after June 30, 1982.

"(e) The authority shall adopt regulations to establish priorities for the purchase of loans for multi-family dwelling enterprises which take into account the need for multi-family housing in the state as reflected by vacancy rates in multi-family housing in different areas of the state.

"(f) In this section "multi-family dwelling enterprise" is a rental or cooperative dwelling of eight or more units."

Sec. 44.88.159. Interest rates. (a) The interest rate on a loan financed from the proceeds of tax-exempt bonds or excepted by the authority to be financed from the proceeds of tax-exempt bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on tax-exempt bonds of the authority plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing.

(b) The interest rate on a loan financed from the proceeds of taxable bonds or expected by the authority to be financed from the proceeds of taxable bonds is equal to the cost of funds to the authority. In this subsection "cost of funds" means the true interest cost expressed as a rate on taxable bonds, plus an additional percentage as determined by the authority to represent the allocable expenses of operation, costs of issuance, and loan servicing costs.

(c) The interest rate on a loan purchased by the authority with money in the small enterprise loan account that is not from the proceeds of the sale of a series of bonds is equal to the most recent index of Aa corporate bond yield averages as published by Moody's Investors Service. (§ 41 ch 115 SLA 1981)

SB

779

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 779
Title An Act making special appropriations to the Veterans home improvement revolving loan fund; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

SEE FISCAL NOTE ON COMPANION BILL SB 780.

IV. DATE 2/22/82 PREPARED BY: Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2655 or 465-2510 Division of Loans and Veterans' Affairs

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

33-001 (Rev. 12/81)

Sec. 26.15.070. Sale or transfer of mortgages and notes. (a) The commissioner of commerce may sell or transfer at par value or at a premium or discount to any bank or other private purchaser for cash or other consideration the mortgages and notes held by the Department of Commerce as security for loans made under this chapter.

(b) The commissioner of commerce may sell or transfer at par value to the Department of Revenue the mortgages and notes held by the Department of Commerce as security for loans made under this chapter. The Department of Revenue shall purchase all of these mortgages and notes offered, allowing the Department of Commerce a one-half of one per cent service fee. (§ 1 ch 127 SLA 1961; am § 5 ch 109 SLA 1971)

Sec. 26.15.080. Power of commissioner to assign and sell mortgages. The commissioner of commerce may assign and sell veterans' loan mortgages to the Alaska State Mortgage Association in consideration of receiving its cash, bonds, debentures and notes upon conditions which he considers advantageous to the state veterans' lending program. (§ 44-2-12 (f) ACLA 1949; added by § 1 ch 131 SLA 1961)

Sec. 26.15.090. Creation of fund. There is created the Alaska World War II veterans' revolving fund to carry out this chapter. This fund shall be used for no other purpose. (§ 44-2-13 ACLA 1949)

Sec. 26.15.100. Repayment of loan to fund. The sum of $1,200,000 appropriated for the purpose of implementing the Alaska World War II veterans' revolving fund to enable the Territorial Veterans Administration to fully carry out the purpose of the Alaska World War II Veterans Act is a loan from the general fund of the territorial treasury which shall be paid back to the general fund as follows: $100,000 during the fiscal year beginning July 1, 1970, and ending June 30, 1971, and an equal amount during each fiscal year thereafter until the principal amount has been repaid in full. Interest at the rate of two and one-half per cent per annum shall be paid on the amount of the principal outstanding from April 1, 1957, until the principal and all interest are fully paid. (§ 1 ch 70 SLA 1949; am § 1 ch 5 SLA 1955; am § 4 ch 97 SLA 1957; am § 1 ch 136 SLA 1960)

For appropriation and provision for repayment under former law, see Alaska World War II Veterans' Bd. v. Territory of Alas., 11 Alas. 463, 165 F.2d 604 (9th Cir. 1948).

Sec. 26.15.110. Limitation on securing bonus and loan. Persons eligible for loans under this chapter are eligible for the bonus provided for by this chapter, but no bonus may be paid to a person who has received a loan under this chapter, and no bonus may be paid after July

SB
780

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 780
Title An Act relating to loans for veterans; and providing for an effective date.

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source) Veterans Loan Fund	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

IV. DATE March 1, 1982

PREPARED BY Don Hostak, Director
AGENCY Department of Commerce & Economic Development
PHONE 465-2555 or 465-2510 Division of Loans and Veterans' Affairs

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

33-001 (Rev. 12/81)

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 780:

Section 1) Amends AS 26 by adding a new chapter: VETERANS HOME IMPROVEMENT REVOLVING LOAN FUND. The fund is to be established in the Divison of Loans and Veterans Affairs, Department of Commerce and Economic Development, for the purpose of making loans to qualified veterans for improving or rehabilitating their residences.

Sec. 26.16.020 Loans to veterans under this chapter bear the same eligibility requirements as veterans eligible under AS 18.56.101

Sec. 26.16.030 Loans under this chapter :

1) may not exceed $10,000
2) be repaid at an interest rate of 9 percent
3) shall be secured by a first or subsequent mortgage on the property to be improved, or by other security considered sufficient by the Dept.
4) only for the purpose of improving or rehabilitating a single family dwelling (owner occupied), duplex, or manufactured home.

Sec. 26.16.040 Repayments of principle and interest shall be paid by the department into the Veterans home improvement revolving loan fund.

Sec 26.16.050 The department may adopt regulations to impliment this chapter.

Sec. 26.16.060 The department may sell or transfer at par value or at a premium or discount to a bank or other private purchaser for cash or other consideration the mortgages and notes held by the department as security for loans made under this chapter.

Sec 26.16.070 "department" means the Department of Commerce and Economic Development.

Section 2) Appropriations, money, records, equipment, loan documents,and other property of the Alaska WW II veteran's revolving loan fund are transferred to the veterans home improvement revolving loan fund. Repayment of principal and interest on loans made from

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 780 continued

the Alaska WW II Veterans' Revolving Loan Fund received after the effective date of this act shall be transferred to the veterans home improvement revolving loan fund.

Section 3) Immediate effective date.

SB
783

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

POSITION PAPER

Senate Bill No. 783
Twelfth Legislature - Second Session

By: Sturgulewski

An act adding multi-family dwellings as a qualified project for purposes of the Alaska Industrial Development Authority.

Attached is a copy of a study prepared for the Alaska Industrial Development Authority by Lehman Brothers Kuhn Loeb Incorporated dated February 15, 1982, and titled "A Strategy for Tax-Exempt Financing of Multi-Family Rental Housing Development Projects in Alaska".

It is the position of the Alaska Industrial Development Authority that the Authority is able and willing to implement a program for financing multi-family dwelling enterprises following any of the feasible scenarios presented in the study as it is directed to follow except a direct loan to borrower program.

The Authority does not have the staff which would be needed for a state-wide direct loan to borrower program and does not feel that such staffing would be economically justified nor satisfactorily productive.

The Authority does recognize a need for financing vehicles enabling the construction of multi-family dwellings in the State of Alaska and feels that the energies of the Authority may well be directed towards achieving suitable financing for such projects.

February 24, 1982

A STRATEGY FOR TAX-EXEMPT FINANCING OF MULTI-FAMILY RENTAL HOUSING DEVELOPMENT PROJECTS IN ALASKA

Parts 1 and 2 (Complete)

ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

Public Finance Division
Lehman Brothers Kuhn Loeb Incorporated
February 16, 1982

PART I

I. INTRODUCTION

The purpose of this report is to provide the Alaska Industrial Development Authority with an outline of alternative approaches for the financing of multi-family rental housing projects. This report is intended to serve as an initial focal point for the discussion and clarification of the goals and constraints under which AIDA can implement programs to support rental housing development. Among the issues that can and should be discussed are the following:

a) the size and scope of an AIDA multi-family housing program (e.g. $20 million versus $200 million);

b) the size and income levels of the target population for such rental housing;

c) the cost and market rent levels for new rental housing;

d) vacancy rates in existing rental units; (i.e. Demand Study)

e) the form of any State assistance including, as examples: rental subsidies, a State moral obligation to back-up AIDA multi-family bonds, or State appropriations for AIDA operating or debt service outlays.

f) the ability of private domestic (Alaskan) financial intermediaries to participate in, or pledge collateral for new rental housing loans.

g) the ability and willingness of AIDA to add staff members with experience in administering multi-family loan programs; and

h) the applicability of various federal programs to an AIDA-sponsored multi-family loan program.

Following clarification of these issues, a more complete report will develop detailed financing alternatives targeted to meet the special needs and resources of AIDA.

This initial report is based on a set of underlying assumptions that may be revised or refined in subsequent discussions. In particular, it is assumed that an efficient and effective mechanism for importing capital funds must expressly address the concerns of investors with the risks inherent in multi-family rental housing projects. Section II of this report reviews these risks and discusses methods used by other agencies in reducing these risks to bondholders. This report also assumes that these risks will not be borne solely by AIDA; rather any program must expressly provide for a sharing of risks by private financial intermediaries domiciled in Alaska and by project owner/mortgagors.

Many of the program characteristics that may be necessary to successfully attract outside investors will not vary with the choice of taxable versus tax-exempt financing alternatives. Nevertheless, since it is assumed that a major goal for AIDA is to attract the lowest cost source of funds, this report is restricted to a discussion of tax-exempt financing alternatives. Under present market conditions, tax-exempt financing carries a cost advantage of approximately 300-400 basis points over taxable financing of equivalent projects. For rental units with a cost, say, of $40,000 per unit financed over 30 years, these savings may amount to more than 16% of annual debt service costs and cumulatively amount to more than $34,000 over the life of the mortgage. By the same token, it is presumed that these cost savings will be passed through from project owners to renters.

Finally, because of uncertainty and a lack of information regarding the applicability of various federal programs in the Alaska housing market, this initial report assumes that multi-family projects financed through AIDA will not carry FHA insurance nor will such projects be subject to rental subsidy payments through the Section 8 program.

II. GENERAL CONSIDERATIONS IN THE DESIGN OF ALTERNATIVE FINANCING VEHICLES

A. Eligibility Requirements for Tax-exempt Financing

Based on the assumptions outlined above, the development of an AIDA financing program must first meet the requirements outlined under federal statutes including the Mortgage Subsidy Bond Tax Act of 1980 ("MSBTA") Briefly, the principal tests that must be met are three:

a) Bonds issued after December 31, 1981 must be in registered form;

b) The interest rate on mortgage loans cannot exceed the true interest cost of the tax-exempt bonds by more than 150 basis points; and

c) At least 20% (15% in targeted areas) of the rental units financed must be provided to low-income tenants as defined by the Internal Revenue Code, Section 167(K)(3)(B).

More specifically, low-income tenants are defined as households with incomes (adjusted for family size) not in excess of 80 percent of the median income for the area as determined by the U.S. Department of Housing and Urban Development. Moreover, under present interpretations of the 1980 legislation, these units must be rented to eligible tenants for a minimum of twenty years and maximum rents charged cannot exceed 30 percent of the maximum monthly income allowed for occupants of such units.

The combined effects of the "20% - 30%" requirements mean that alternative subsidy arrangements will generally be necessary for any given housing development to generate adequate revenues. In theory, the rentals charged for the remaining 80 percent of the units could be raised to the point necessary to meet projected revenue goals. The feasibility of this approach depends on the level of required rental revenues for unsubsidized units relative to "market rents" on alternative housing units in the area. A more complete

analysis of this approach requires specific data on such factors as income and rent limits for eligible low income tenants, project costs, and area market rents. It should also be noted that AIDA and the State legislature may decide, as a matter of policy, that rental subsidy payments can and should be provided from State resources.

B. General Considerations in Insulating Bondholders from Project Risk

Investors, generally, are risk-averse and multi-family rental housing projects are generally perceived as inherently risky. Therefore, a viable financing program must devise suitable methods to insulate bondholders' from the risk of losses associated with project delinquencies or defaults.

The ability of owners of multi-family rental developments to meet required mortgage payments and operating expenses depends upon a variety of factors, including the achievement and maintenance of a sufficient level of occupancy; sound management; timely and adequate increases in rents to cover increased taxes, utility costs and maintenance; and social and demographic factors that influence consumer demand for the project.

Bondholders, particularly investors outside the State, cannot be expected to incur the costs of monitoring these factors or of absorbing these risks.

Traditionally, issuers of tax-exempt bonds have developed a variety of methods designed to shield bondholders from these risks, including the use of FHA insurance and/or the pledge of rent subsidy payments under the Section 8 program. Under the assumption that these federal programs do not apply in the present Alaska housing market, AIDA will need to develop other methods of credit support and the choice will, to some extent, be dictated by the type of programmatic approach followed in implementing a multi-family housing program.

The two generic approaches adopted by other agencies are direct loan programs and loan-to-lender programs.

C. Direct Loan Programs

Under these programs, the agency (e.g. AIDA) issues tax-exempt securities and uses the proceeds to grant mortgage loans directly to project owners or to purchase mortgages from eligible originators. The agency's bonds are secured in the first instance by mortgage loan repayments, including any insurance or subsidy payments directly related to the mortgage portfolio.

It should be emphasized that investors and rating agencies place particular importance on the experience and resources of agency staff members in assessing the quality of bonds issued under direct loan programs. As stated by Standard & Poor's Corporation:

> "Considerable emphasis must be placed on the agency staff since a detailed analysis of each project is impossible and the resolutions generally provide for additional series of bonds. We consider the size and experience of the staff in the key areas of design, underwriting, finance, legal, construction management and property management." (Standard & Poor's Corporation, Bond Rating Guide)

Among the tasks required to be performed or monitored by agency staff under direct loan programs are site selection and market review, economic feasibility analyses, construction inspection and management selection and review.

The evaluation of site selection and review may include an inspection of site characteristics, surrounding land uses, availability of public transportation and utility systems, proximity of the site to recreation, health care, religious and social amenities, shopping and educational facilities, and employment opportunities. Such analysis may also include review of demographic factors as

well as current rent levels and vacancy rates for comparable housing units in the market area.

The analysis of economic feasibility requires assessment of construction costs and possible delays in construction or future increases in cost; the financial and management capabilities of the developer and/or project owner; the projection of rent levels, operating expenses and taxes; and the compatibility of the project with governmental building codes and Federal and State environmental requirements.

During the critical construction phase, suitable arrangements must be developed to monitor compliance with plans and specifications, to review and approve changed orders, and to approve requisitions for construction advances.

This brief discussion of the functions required to be performed under direct loan programs carries important implications for the implementation of new programs.

While it may be possible to contract with outside parties for the performance of certain of these functions from time to time or project to project, the interests of the agency (AIDA) in managing its risk exposure can be expected to require in-house staff capabilities. There will necessarily be a significant lead time to recruit and staff these functions and to develop appropriate operating procedures for direct lending. These staff resources must also be viewed as "fixed costs" and will entail a significant increase in annual operating expenses. In the short run or start-up period, these costs may require appropriations from other AIDA programs or State appropriations. In the long run, the incremental resources and costs may be funded from fees charged to mortgagors and developers. However, the viability of this approach requires a substantial, sustained commitment by AIDA and the State to multi-family

programs so that these fixed costs may be economically allocated over a sizeable number of projects.

While adequate professional staff resources are a prerequisite to developing marketable bonding programs, it will also be necessary to develop other sources of credit support to further insulate bondholders from project risks. The most common approach used in other programs is to provide bondholders with:

a) the general obligation pledge of the agency under which any otherwise unencumbered revenues may be used to supplement mortgage loan repayments;

b) the use of a debt service reserve fund invested in marketable securities and pledged solely for the purpose of meeting temporary cash flow aberrations from projects; and

c) the "moral obligation" pledge of the State to replenish the debt service reserve fund.

It should be noted that this approach has been followed by AIDA in the implementation of its Umbrella Bond Program.

The use of an additional moral obligation pledge by the State requires, obviously, State approval and this will occasion a review of the costs and benefits of such "contingent" State liabilities.

The potential benefits are clear: rating agencies generally accord revenue bond issues with State "moral obligation" backups a rating one level below the rating on State general obligation debt. Moreover, with adequate project supervision and selection, the likelihood for actual cash outlays by the State can be mitigated.

The costs are more difficult to measure but require an analysis of the effects of added "contingent liabilities" on the cost and ratings of State general obligation debt. Further analysis of these important issues requires additional data and is beyond the scope of this report.

Other important issues in evaluating the efficacy of a multi-family direct loan program for AIDA include the analysis of construction loan versus permanent mortgage financing and the extent of risk-sharing or participation by private lending institutions.

D. Construction Lending versus Permanent Mortgage Financing

The past experience of many agencies in other States has pointed out that substantial risks in multi-family rental housing lending occur during the construction phase of projects. Several approaches have been used to mitigate these risks to lending agencies and their bondholders. Several State agencies have opted to restrict program lending activities to permanent mortgage purchases for recently completed projects. Simply, this approach permits the agency to avoid construction risks. It also requires mortgagors to seek alternative, higher-cost, construction financing from conventional sources at taxable interest rates. Thus the full potential benefits of lower tax-exempt borrowing costs are not passed through to the initial capital costs of project development. A second approach followed by agencies restricts construction loan financing to projects covered by FHA insurance on construction loan advances and commitments by GNMA to take out the permanent mortgage upon final endorsement for insurance by FHA. This approach generally protects the agency from construction risks and results in high ratings and low borrowing costs. However, the applicability of this approach assumes that projects and mortgages can meet the appropriate requirements under these Federal programs.

Finally, other agencies provide combined construction loan and permanent mortgage financing. Generally, the implementation of this approach is restricted to agencies with a successful track record of multi-family lending and to projects with substantial Federal subsidy supports.

E. Mortgage Participations by Private Lending Institutions

It may be appropriate for AIDA to develop a mortgage loan participation program to shift relatively more of the construction risks to private mortgage origination intermediaries. For example, AIDA could provide, say, 50% of construction loan financing while private lending institutions supply the remaining loan advances. Permanent mortgage financing, contingent upon the successful completion of construction, could then provide for 90% AIDA participation and 10% participation by private mortgage lending institutions.

In general, the concept of risk sharing through a loan participation program can serve as an added element of latent credit support for AIDA and its bondholders. Participation, either through loans or equity, by private lending institutions helps ensure that these institutions will select economically viable projects and will provide extra resources in monitoring and managing projects over the long run. Moreover, AIDA has established the precedent for participation programs through its Umbrella Bond Program.

Assessing the appropriate level of private lender participation does require further analysis to determine the effects on overall project financing costs and the willingness and ability of private lending institutions to fund various levels of participation.

F. Loan to Lender Programs

A major alternative to direct loan participation programs is a loan to lender program. These programs have been increasingly popular in recent months and are fairly easy to implement in a short period of time. Under the loan to lender concept, the agency issues its tax-exempt bonds and relends the proceeds to participating lending institutions. These institutions, in turn, make

construction loans and/or permanent loans to developers of rental housing. The private lenders thus retain the mortgage loan and assume the risks. The loan from the agency to the lender is a general obligation of the lending institution and repayment of the loan is additionally backed by the pledge of acceptable collateral or a letter of credit from a major bank with a high credit rating. Thus, the terms of the agency loan to the lender provide the primary security for the agency's bonds. This effectively insulates the agency and its bondholders from project risks, shifting these risks to the lending institutions that may be best suited to analyze and manage such loans.

Under the loan to lender concept, private lenders and developers function in the same manner as with traditional sources of mortgage capital. For example, developers use private architects to draw up plans and specifications; private attorneys to handle the legal work; private engineering companies to survey the property and do test borings; private suppliers to provide materials; private general and subcontractors to build the development; private marketing firms to advertise and promote the development; private leasing agents to rent the new units; and private management companies to collect rents and maintain the property. Lenders underwrite loan applications using their normal stands. They perform the credit analysis of developers; review the track record of contractors; accept or reject locations, analyze the cost and marketability of the proposed housing; see that codes and other governmental requirements are met; and inspect construction through to completion.

Developers interested in the program may apply to a participating lender for construction and permanent financing. The lender can reserve funds from the prospective bond issue by signing a Commitment Agreement and paying a Commitment Fee to the agency (which fee can be passed on to the developer).

The agency-to-lender loan rate is established after bonds are sold, typically at a level 1/8th % to 5/8th % above the bond interest cost. The lender-to-developer loan rate is set at a level no greater than 150 basis points above the bond interest cost.

While the agency bond maturities and lender loan repayments may be tailored to the normal long-term amortization of the multi-family mortgage loan, recent loan to lender bond issues have resulted in relatively short maturity structures, which require mortgagors to refinance loans in approximately 10 - 13 years. Although this does shift a potentially serious interest rate risk to the mortgagor, this risk is offset somewhat by the lower cost of tax-exempt financing under the shortened bond maturity structure. Moreover, banks as participating lenders have been reluctant to pledge collateral beyond 10 - 13 years.

Lehman Brothers Kuhn Loeb has pioneered the development of recent loan to lender bond programs, meeting the requirements for multi-family loans under the MSBTA of 1980, by working with issuers to develop both collateralized programs and letter-of-credit (LOC) backed programs. Under the collateralized approach, bonds have been structured with serial maturities beginning in the third year and a final balloon payment in the 13th year. Bond maturities and lender loan maturities are matched to mortgage loan maturities, which are, in turn, based on amortization over a 30-year period.

Under this program, to secure an AA bond rating, lenders are required to pledge collateral securing the agency bonds according to the following schedule:

> Direct U.S. Government or U.S. Government guaranteed securities in an amount whose market value equals 125% of the lender loan; FHA/VA single family mortgage loans whose market value equals 140% of the lender loan, and/or conventional, single family mortgage loans whose market value equals 150% of the lender loan.

It should be noted that other underwriters have proposed alternative methods for structuring bond maturities under collateralized loan-to-lender programs.

While no bond issues appear to have been sold under these proposed structures, the basic difference in approach with the type of program developed by Lehman Brothers is in the mismatching of bond principal maturities and mortgage loan maturities. As advanced by this alternative approach, the mortgage loan repayments are scheduled basically identically with the Lehman approach. Bonds, however, are scheduled on a level debt basis over a 13 year period. Thus, lenders repay principal to the agency more rapidly than principal is received from the developer. In effect, then, this approach results in a negative cash flow for the lender.

Generally, the ability and willings of lenders to pledge collateral is of primary importance in developing a successful loan-to-lender program. In order to reduce the collateral requirements, Lehman Brothers has developed a letter of credit (LOC) alternative. Simply, this alternative involves the purchase of a LOC from a triple-A rated bank as additional credit support for the agency's bonds. The principal advantages of the LOC-backed bond are significantly lower interest rates associated with the Aaa rating and the reduced collateral requirements. Under this alternative, the bank issuing the LOC does require originating lenders to secure the LOC with a pledge of collateral based on U.S. Government securities with a market value of 105% of the lender loan, or mortgages with a market value of at least 110% of the lender loan.

III. A PROPOSED STRATEGY FOR THE ALASKA INDUSTRIAL DEVELOPMENT AUTHORITY

The discussion in the previous section has pointed out that each of the two principal approaches to multi-family lending has its unique advantages and disadvantages. By way of summary, the principal advantages of direct loan programs are the wide flexibility permitted AIDA in selecting projects and structuring appropriate financing terms, and the centralized focus permitted for targeting State or Federal subsidy programs.

The principal disadvantages are the need for explicit credit support arrangements, the lead time necessary to implement such a program, and the significant operating expenses required to properly administer a direct loan program.

The principal advantages of the loan to lenders approach are that such programs minimize the need for other sources of State support and they may lead to generally higher ratings and lower interest costs. The principal disadvantages include limitations on the ability and/or willingness of domestic financial institutions to pledge sufficient collateral, and the refinancing risk faced by mortgagors.

It is our opinion that AIDA may best serve the long-run interests of Alaska by the development of a direct loan participation program. However, given the lead time necessary to properly implement this program, AIDA may choose to first initiate a modestly-sized loan to lender program utilizing a bank letter of credit. Implementing such a program will establish an immediate presence for AIDA in the multi-family rental development market. Moreover, this initial step can be used to buy additional time and experience for the development of an AIDA direct loan program.

PART 2

I. INTRODUCTION

You have informed us that capital market conditions in recent years have been particularly damaging to housing markets in Alaska. The continuing high level of interest rates and the extreme volatility of the rates have seriously disrupted conventional real estate lending instruments and institutions. Moreover, the pervasive uncertainties surrounding the future course of fiscal policy and monetary policy do not promise a short-term resolution to the problems faced by traditional lenders or borrowers. The restructuring of financial markets that is now underway will last long beyond the next peak in the interest rate cycle and will force new approaches for the financing of basic shelter needs, particularly for low and moderate income families.

The high level of taxable interest rates on conventional mortgage loans has effectively priced new rental housing units beyond the reach of many families. Furthermore, conventional lending institutions, buffeted by the extreme volatility of market interest rates, are increasingly reluctant to provide long-term fixed-rate loans.

At the same time, demand for rental housing is increasing in Alaska. In part, this increased demand can be traced to the cost of credit in the single-family mortgage market. Also, basic social and demographic changes have increased the demand for "affordable" rental housing. Earlier adulthood, later family formations, and more mobile lifestyles have combined to stimulate the need for rental as opposed to owner-occupied housing units.

The Alaska Industrial Development Authority or another public corporation should be positioned to play an important role in meeting these fundamental and lasting changes in multi-family housing finance.

Mortgage lending, multi-family housing finance is essentially a business loan market. A centralized focus for the implementation and management of shared public-private sector roles and responsibilities in multi-family housing exercised by an entity with an understanding of lending to the private business sector would be a particularly efficient and effective way of monitoring housing needs, administering the myriad of federal programs and developing unique programs responsive to the needs of Alaskans.

A central focus would permit cohesive but flexible financing programs, including direct loan or mortgage-purchase programs utilizing FHA insurance under Section 221(d)(4), Section 8 project financings, and FHA-insured construction loan financings with permanent loan takeouts under commitments from GNMA. Moreover, innovative methods of State of Alaska support could be integrated with or developed independent of these traditional methods of financings. Such innovations could include low-rate loans delayed amortization loans or equity participations. Other methods of State support could include direct legislative appropriation of existing State assets to provide supplemental cash flow that could be used to secure bonds issued to further multi-family housing financing.

Fashioning such a role for a public corporation require a thorough assessment of present and future rental housing needs in Alaska, a review of the current roles of the State and its agencies, as well as private lenders and developers in this market, and a strategic plan for effectively targeting the programs that could be developed.

Our discussions with representatives of lending institutions and public officials in Alaska indicate an urgent need to access low-cost funds to stimulate new construction. Vacancy rates are extremely low and new construction is virtually at a standstill.

Most of the traditional financing approaches employed by other states in the past do not appear applicable or feasible for financing multi-family projects today. For example, while a mortgage-purchase program utilizing FHA-insured loans under Section 221 (d)(4) could theoretically be implemented in a reasonable timely fashion, this would require the use of long-term (30 year) bonds. At present yields, the high level of interest rate on long-term bonds in the tax-exempt market effectively foreclose this option as the resulting mortgage loans could not be amortized by the underlying dwelling units.

Moreover, the cutbacks proposed and implemented in other federal programs, such as the GNMA tandem program along with the inevitable delays in developing the necessary interface with these programs and between the appropriate Federal agencies further frustrates moving ahead positively and quickly.

Table 1

Current Market Yields on
Aa-Rated State Agency
Housing Bonds (FHA-VA Insured)

February 9, 1982

Maturity (in Years)	Yield
10	11.25%
20	13.00
30	13.50

Table 1 above points out that yields on 30-year Aa rated housing agency bonds are presently around 13 1/2%. The efective mortgage loan rate on new issues at this yield level would necessarily range between 14 1/2% and 15%. Since our understanding of housing market economics in Alaska indicates that projects may not be feasible at loan rates above 13-13 1/2%, it is clear that long-term financing cannot provide a short-run solutions to prevailing construction demand.

Because of these frustrations inherent in financing along traditional lines, the State must look elsewhere if financing support is to be made available for addressing existing demand given financial market constraints. Building on alternative financing ideas employed in the lower forty-eight, refined to meet the restrictions existing in Alaska, we believe a loan to Master Lender financing approach is the desirable and effective way to proceed. This program - the Master Lender Multi-family Housing Loan Program - is outlined in the next section of this report. We believe that the Master Lender program concept has many advantages. First, it is designed to enable the State of Alaska to quickly channel funds into new construction for the 1982 building season.

- A Master Lender bond sale could be ready for market within 90 days from the date of enabling resolution by the corporation.

Second, the program is designed to enable the bonds issued to carry a high rating (at least double A) and thereby achieve significant interest rate savings.

- Based on present market conditions, we believe that a Master Lender bond issue could be marketed at tax-exempt rates that would permit effective mortgage loan rates within the 13-13 1/2% limit.

This program also is highly efficient in that existing institutional arrangements are utilized to the maximum extent possible.

- The Master Lender program preserves the traditional roles of the local lender and developer, enabling each to share in the risks and returns from private capital investment.

- The Master Lender concept also requires no subsidies or outlays by either the public corporation issuing the bonds or the State.

II. The Master Lender Multi-family Housing Loan Program

The basic structure of the Master Lender program is outlined in Chart 1 and involves important roles for the corporation, the Master Lender, local lenders and developers/owners of multi-family housing developments.

Briefly, the program works as follows:

1. Upon adoption of appropriate resolutions, selection of the Master Lender - which could be a bank, property or casualty firm or any other lending institution or entity - and the development of program loan guidelines, the designated corporation would announce its plan to implement a Multi-family Loan Program and sponsor an information meeting for interested local lenders and developers.

2. Interested local lenders would reserve commitments from the program by undertaking a participation loan commitment agreement and paying a commitment fee to the corporation. We believe that a commitment fee of 1 point is appropriate. This fee, which would be passed through to the developers, provides a contribution to the expenses of the program, and makes possible early amortization of the costs associated with the financing.

3. Local lending institutions, in conjunction with the Master Lender, will apply standard underwriting criteria to select projects and developers for program participation. Local lenders will originate new loans under program guidelines and will provide 100% of the necessary construction loans (at taxable market rates). At the completion of construction, local lenders will retain a participation in the permanent mortgage financing, at market (e.g. taxable) rates. We believe that a 10% local lender participation in the permanent loan allows for a suitable sharing of risks between the Master Lender and the local lenders, insures diligence on the part of local lenders in the origination and servicing of loans, and permits profit making by the local lenders in return for their participation on the permanent financing.

4. Shortly after finalizing local lender commitments, but prior to actual construction of the project, the corporation will issue bonds in the amount necessary to finance 90% of the permanent loans. Based on estimates supplied to us by AIDA, an initial bond issue in the $75-100 million range appears feasible.

5. During the construction period, which should be limited to two years, bond proceeds will be invested in high-grade, short-term securities at a yield substantially in excess of the bond yield. This yield spread will produce net income which will in part offset bond issuance expenses and permit the corporation to pass-through a lower financing rate. We recommend a construction period not longer than two years we believe this to be advisable because it insures that the projects constructed will address discernable and realistically be assessed demand. Further, two years will insure that all proceeds

from the financing will be spent within the traditional IRS-defined temporary period.

6. At the completion of construction, the corporation will loan the bond proceeds to the Master Lender ("Lender Loan"). The Master Lender will provide 90% of the permanent mortgage loan at a rate pegged to the effective interest cost of the bond issue.

7. The Lender Loan will be structured as a general obligation of the Master Lender. The Master Lender should be selected on the basis of it being a nationally recognized institution possessing an AA rating or better on its general obligation debt securities. Structuring the loan as a general obligation insures that the Master Lender's rating can be passed through to the corporation's bonds.

8. Local lenders will act as originating any servicing agents and will commit to make loan repayments on the permanent loan to the Master Lender on a timely basis. In turn, the Master Lender wil undertake repayment of the Lender Loan to the program trustee.

9. Excess cash flows in the program after bond debt service requirements have been satisfied will revert to the corporation.

In our view, there are a number of important benefits from the strucutre of the Master Loan Multi-family Housing Loan program.

First, the use of the Master Lender provides to the corporation's bonds the security requisite to expedite the marketing and distribution of the bond issue to investors. Moreover, structuring the corporation's loan to the Master Lender as a general obligation obviates the need for cumbersome and costly collateralization.

Second, local lending institutions retain the important function of client maintenance and development with local developers and owners. These local lending institutions are best positioned to evaluate the suitability and marketability of proposed developments and the capabilities of developers. It is appropriate, therefore, that these local institutions provide origination and construction loan financing and shield bondholders and the Master Lender from the inherent risks of the construction period.

Third, the developer/owner, under this program, can maintain a working relationship with local lending institutions and benefit from a low-cost blend of 10% taxable - 90% tax-exempt financing at rates well below (400-600 basis points) conventional mortgage rates. Based on our assessment of preferred local lending practice, we would suggest that the loan-to-value ratio be established at 75%, thus establishing a significant local equity capital contribution to further insure the success of the program.

Fourth, a potential long-term benefit to the corporation and, more generally, the State, stems from the development of a good working relationship with out-of-state capital sources.

While the rates and fees for the various loan components are subject to negotiation and tax-exempt market conditions, terms that appear forseeable are:

Lender Loan:	Rate within 25 basis points of the TIC on the bonds
Construction Loan:	Market rate + 2 points origination fee
Permanent Loan:	90% -Rate at 1% above the Lender Loan + 2 points origination and 1 point Stand By Commitment Fee
	10% -Market Rate + 2 points origination fee
Servicing Fee:	One-fourth of 1% for loans below $1 million; one-sixth of 1% for loans over $1 million

The loan origination fee is paid by the developer on the closing date of the respective loan. The fees are designed to compensate the appropriate lender for closing and adminstrative cost, for the risk of undertaking the loan, and the commitment to subsequently refinance either as a permanent loan or upon maturity of the balloon. The Stand By Commitment Fee is a unique charge assessed by the Master Lender for the use of its credit and the risk assumed by

that institution to make possible the developer's access to low cost tax exempt "balloon" maturity financing.

Bond Maturities and Loan Terms

As noted earlier, present market conditions preclude the issuance of long-term bonds at rates sufficiently low to provide mortgage loans at or below 13 1/2%. Assuming that present market conditions continue for the near-to-mid-term, we recommend that the initial issue of the corporation's Master Lender Multi-family bonds be structured with a 7-12-year final maturity.

The Master Lender Loan and the subsequent mortgage loan should be structured on the basis of a 20-25-year amortization schedule of equal annual debt service payments, with a "balloon" or term maturity in a year consistent with the bond maturity. It must be recognized that this loan maturity structure has the positive feature of small principal amortization in the critical early stages of the project's life. Conversely, the Master Lender assumes the greater risk of refinancing almost the entire principal amount of the mortgage loan.

Based on recent market conditions, this structure would permit a bond interest cost of approximately 11-11 1/2%, a tax-exempt developer loan rate of approximately 12 1/2% and a blended (10% taxable - 90% tax-exempt) permanent loan rate of approximately 13% (assuming a rate of 17% on the 10% local lender permanent loan).

Given current market conditions with very wide differentials between short and long-term yields, this maturity structure represents a compromise between the prohibitively high cost of long-term financing and the refinancing risks inherent in low-cost, short-term financing. The use of this type of maturity structure in recent bond sales indicates that this is an acceptable tradeoff of

cost-risk factors in that is does provide for low-cost permanent financing for at least five to ten years dependent on the final maturity selected. The final maturity schedule, should be tailored to market conditions at the time of sale.

To comply with federal regulations under the MSBTA and to increase the supply of rental housing at the lowest administrative cost, adherence to the following program parameters have varying degrees of importance:

Type of Housing: Newly constructed rental housing developments. All developments required to be used as rental housing for a period equal to that of the outstanding bonds. Both of these requirements are mandated by the MSBTA and govern housing financed with the proceeds from tax-exempt bonds.

Income Restrictions on Tenants: At least 20% of the units in each development financed under the program must be occupied by low income tenants as that term is defined by 167(k)(3)(B) of the Internal Revenue Code. The remaining 80% of the units must be occupied by tenants whose adjusted gross income per household was less than the maximum income limit established by the corporation. Projected adjusted gross income will be used to determine compliance. This information is to be obtained during the tenant application process and sworn to (notarized) by the applicant.

Recertification of Tenant/Income Annual Audit: No recertification of tenant income is necessary following original occupancy. As long as a tenant occupies a unit in the development (not necessarily his or her original unit), the tenant/unit continues to qualify under the development's income restrictions. However, the corporation acting through the trustee bank will conduct an annual compliance audit of each development financed under the program.

Distribution of 20% Income-Restricted Units: The 20% income restricted units must be reasonably interspersed on a pro rata basis throughout the development.

Rent Restrictions on Units: For the 20% of the units set aside for the low income tenants, rents cannot exceed 30% of the maximum monthly income allowed for occupants of such units.

Tenant Acceptance: As long as the same standards applied to the 20% restricted income tenants are applied uniformly throughout the development, the developer may reject any tenant on the basis of bad credit, poor job history, and other reasons evidencing tenant undesireability. For example, the development may be designed and marketed exclusively to the elderly or to childless couples.

Selection of Income and Rent Restricted Units: Specific units meeting income and rent restrictions requirements may be redesigned by the developer from time-to-time (with notice to the corporation and the bond trustee), so long as at

least 20% of the units within the development are so designated for 20 years and further so long as the designated units are reasonably interspersed throughout the development.

Violation of Income Restriction Requirements: Loan documents between the lender and developer will include a variety of mechanisms for enforcing the income restriction requirements. A violation of such requirements would constitute an event of default under the loan, subject to reasonable and standard notice and cure provisions prior to any foreclosure action on the mortgage.

Regulatory Agreements and Deed Restrictions: The developer, the corporation and the bond trustee will enter into a regulatory agreement and the devloper will be required to record certain deed restrictions requiring use of each develoment for 20 years following completion of construction of such development as rental property in which at least 20% of the units are occupied by lower income tenants. The regulatory agreement may be ultimately enforced by default and acceleration of the mortgage note. The deed restrictions, which run with the land, may be enforced by any available judicial proceedings.

Equity Joint Ventures: Any qualified lender may, in its name or through a subsidiary, establish an equity joint venture with a developer, with such joint venture then borrowing from the lender under the program. (It must be noted that national banks are prohibited from taking an equity interest in projects they finance.) In such cases the lender must make an actual cash, property or in-kind contribution of equity. This requirement will give comfort to the program that any ventures are, in fact, bona fide. Further, the lender's percentage share in ownership return may not exceed the lender's pro rata share of equity contribution. In addition to insuring that ventures formed are legitimately what they represent to be, this requirement protects the financing from possible accusation that a disproportionate return is simply a device for circumventing IRS-imposed arbitrage restrictions existing on tax-exempt financing. Finally, it should be the policy of the corporation that a lender's percentage share in ownership of the equity joint venture not exceed 50%. This protects against lender's program participation being simply self-serving to the exclusion of intended program beneficiaries.

The key details of the Master Lender Mult. family Housing Loan Program outlined above have been tested and are acceptable in the bond market. It should be noted however, that the basic financing structure can and should be adapted to be responsive to the needs or interests of the corporation.

Collateralized Loan to Lender Programs

One option, that obviates the need for a Master Lender, is the use of a collateralized lender loan program with a standby letter of credit from an A or AA Rated national lending institution. Discussions with representatives of the Alaskan financial community, evidence that the capacity of local lenders to pledge acceptable collateral may be limited.

We understand, however, that the State owns a substantial portfolio of mortgages loans. The corporation, along with appropriate levels of State government, may wish to explore whether these loans could be placed in trust with a bond trustee such that the cash flow from this portfolio could serve as added security for local lender loans.

A version of this approach is outlined in Chart 2. Briefly, the key differences are:

1) The Master Lender Loan is replaced by a 90% participation in the permanent loan by the corporation, and

2) The corporation's bonds are backstopped by a pledge of the cash flow from the pledged collateral.

The key to this approach lies in how acceptable is the collateral to the rating agencies. An outline of the criteria used by these agencies is included in Exhibit A. While we do not have sufficient information to express any judgements regarding the pledging of these loans, we can indicate that an additional tier of protection could be obtained by supplementing the collateral pledge with a letter of credit from a nationally-recognized lending institution with a AA or AAA rating, or through collateral insurance from a mortgage insurance Company. This variant, outlined in Chart 3, permits the rating on the national lending insitution to be passed through to the corporation's bonds.

In the event that the trustee is required to draw on the third party security to meet bond debt service requirements, the corporation will agree to reimburse such drawings. The corporation's commitment would be secured by the collateral pool.

Either approach could be developed into a workable bonding program. The key steps in this approach are:

1) Legislative appropriation of the loan portfolio to be placed in trust.

2) Valuation of the loan portfolio and its cash flow.

3) Securing the requisite enhancement to insure the highest possible bond rating with the resulting lowest borrowing cost.

Because of the likely time delays in undertaking these steps, it is our opinion that the Master Lender Multi-family Housing Loan Program is the most promising alternative for an immediate lending program.

EXHIBIT A

Collateral:

For non-rated or less than AA rated institutions, approximate collateral requirements are as follows: The lender loan must be secured by (i) direct U.S. Government or U.S. Government guaranteed securities in an amount whose market value equals 125% of the lender loan, (ii) letter of credit from an eligible bank in an amount equal to 100% of the lender loan, (iii) FHA insured, VA guaranteed or conventional single family mortgage loans whose market value equals 150% of the lender loan. Single family mortgage loans used as collateral must (a) have a fixed interest rate and substantially equal monthly installments of principal and interest, (b) have an original term of 25 to 30 years, (c) have a remaining term at least equal to 15 years, (d) qualify as legal investments for federally chartered savings and loan associations (if lender is a savings and loan association), (e) be of the type which have been generally eligible for purchase by FNMA or FHLMC, (f) not have more than 90 days in arrears at any time during the preceding 12 months and remain in a current status while on deposit in the Collateral pool, (g) be serviced by the lender or the lender's qualified agent, (h) if a condominium mortgage loan, have a principal amount such that the aggregate amount of all such pledged condominium loans are not in excess of 10% of the collateral requirement, and (i) possess generally acceptable insurance based on loan-to-value ratios if a conventional loan and FHA flood insurance if in a flood zone. Government securities used as collateral must be (a) direct obligations of the United States of America or any agency or instrumentality thereof, or obligations fully guaranteed by the United States of America or any agency or

instrumentality thereof (including, without limitation, mortgage loan pool participation certificates issued by GNMA), provided that such direct obligations or guarantees, as the case may be, are entitled to the full faith and credit of the United States of America; or (b) mortgage loan pool participation certificates issued by the Federal Home Loan Mortgage Corporation.

Collateral Valuation and Maintenance:

Collateral must be valued at market and must be revaluated no less frequently than quarterly and brought back to required levels within 30 days (i.e., by pledge of additional collateral to make up a deficiency or by release of excess collateral). FHLMC and FNMA auction yields are to be used for valuing the collateral pool using the "mortgage yield" defined as yield-to standard prepayment date. The standard prepayment is normally 12 years or half of the remaining life of the mortgage, whichever is shorter.

Collateral Substitution:

Free and unlimited substitution of permitted collateral in required amounts at each established valuation date. More frequent substitutionis permitted in the event of early payoffs of loans in the collateral pool or to conform to regulatory requirements.

Chart 1
Key Funds Flow for a
Master Lender Multi-Family Housing Loan Program

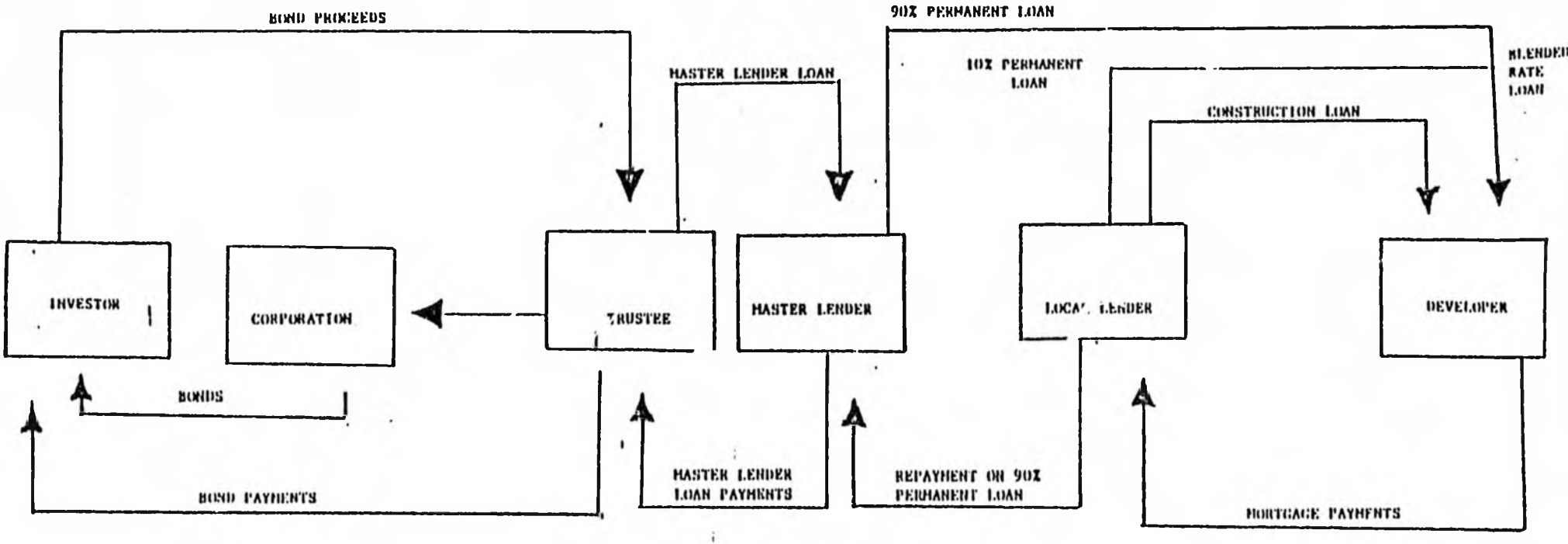


Chart 2
Key Funds Flow for a
Multi-Family Housing Loan Program
Collateralized by State Portfolio of Loans

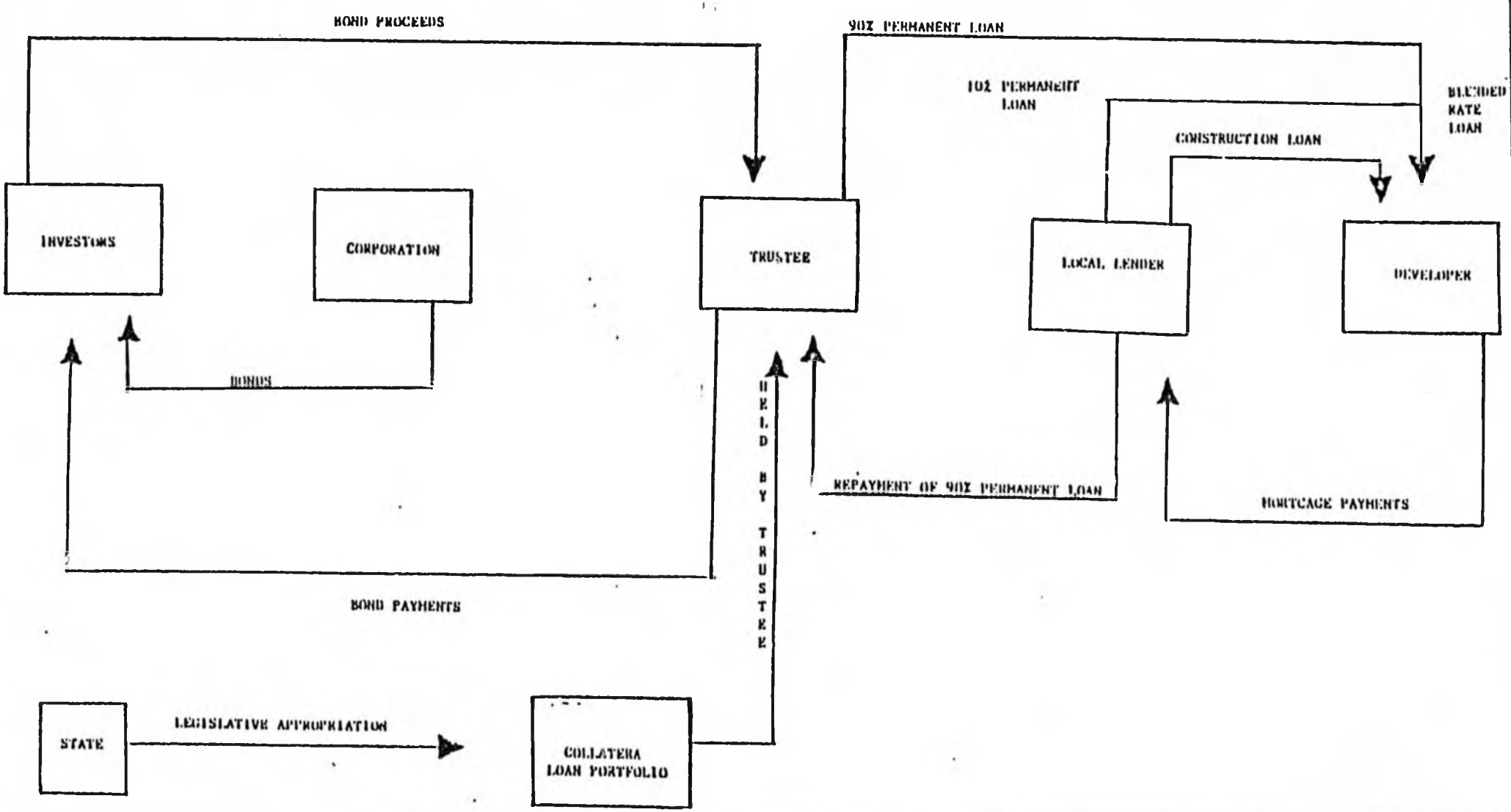
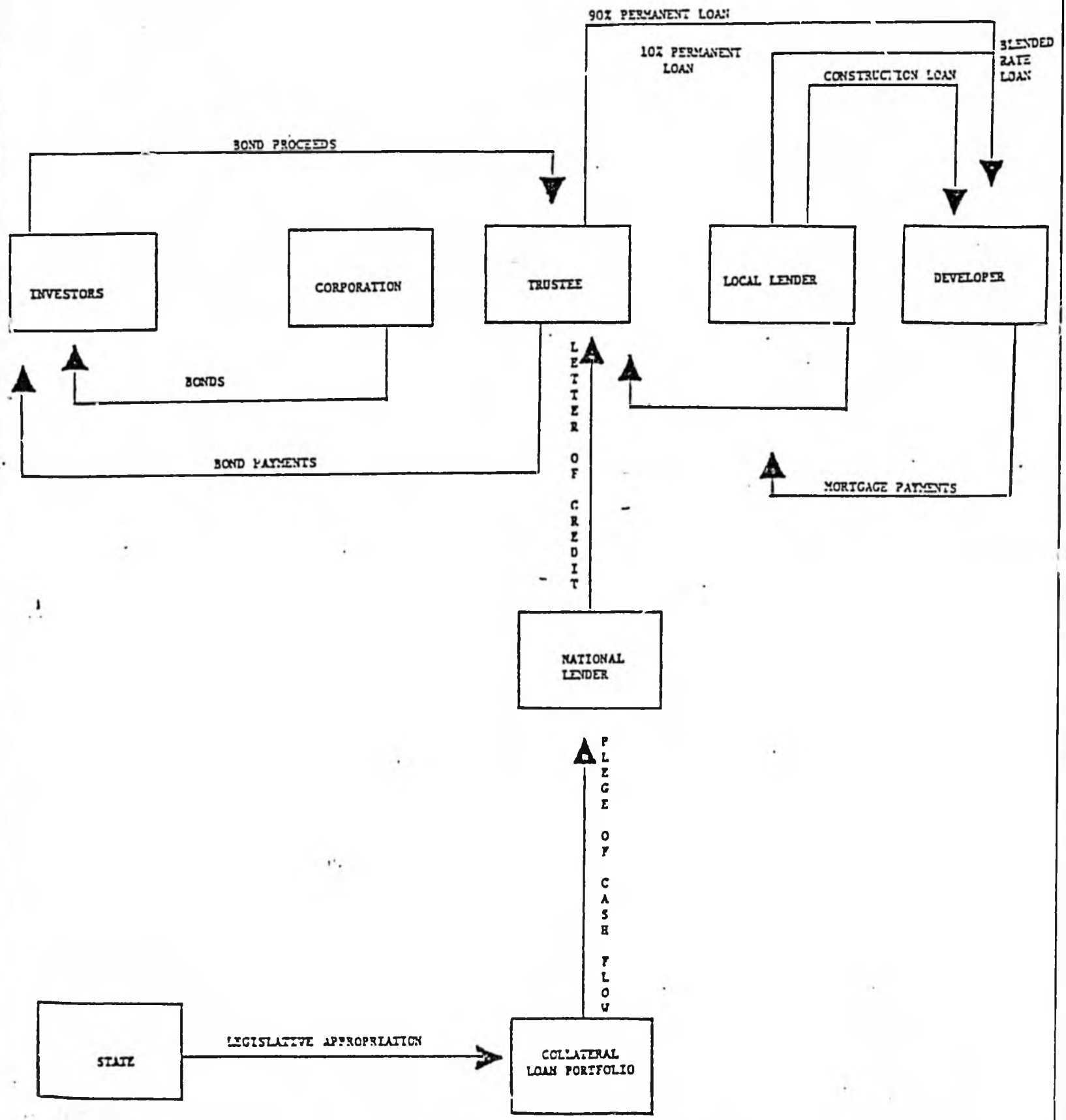


Chart 3
Key Funds Flows for a
Multi-Family Housing Loan Program
Utilizing Collateral Pledge and Letter of Credit



Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Article 4. General Provisions.

Section
165. Delinquent loans
212. Fees charged by authority
220. Definitions

Sec. 44.88.165. Delinquent loans. If more than two percent of the total outstanding balance of loans purchased from a financial institution under AS 44.88.010 — 44.88.220 becomes delinquent for 90 days or more, the authority shall discontinue purchasing loans from that financial institution until the delinquency is reduced to less than two percent. (§ 42 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Sec. 44.88.212. Fees charged by authority. (a) An application fee may not be charged for an application for authority participation in a loan under AS 44.88.158.

(b) The commitment fee for a loan commitment by the authority may not exceed two percent of the principal amount of the loan. (AS 44.88.085; § 34 ch 115 SLA 1981)

Effective dates. — Section 52, ch. 115, SLA 1981, provided that this section take effect July 28, 1981, in accordance with AS 01.10.070(c).

Editor's notes. — This section was originally enacted as AS 44.88.085 and was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

Sec. 44.88.220. Definitions. In AS 44.88.010 — 44.88.220

(1) "authority" means the Alaska Industrial Development Authority created by AS 44.88.010 — 44.88.220;

(2) "business enterprise" means a single proprietorship, corporation, firm, partnership, or other association of persons organized in any manner, for any business purpose, other than on a nonprofit basis;

(3) "federal agency" means the United States and any officer, department, agency or instrumentality of the United States;

(4) "governing body of a political subdivision" means, when used with respect to the location of a project, the council of a city if the project is to be located in a city in the unorganized borough, or the assembly if the project is to be located in an organized borough or a unified municipality;

(5) "project" means

(A) a plant or facility used or intended for use in connection with making, processing, preparing, or producing in any manner, goods, products or substances of any kind or nature or in connection with

developing or utilizing a natural resource, or extracting, smelting, transporting, converting, assembling or producing in any manner, minerals, raw materials, chemicals, compounds, alloys, fibers, commodities and materials, products or substances of any kind or nature, any plant or facility used or intended for use as an industrial park or in connection with air and water transportation, or any plant or facility for the prevention, limitation or control of air or water pollution, for the disposal of sewage or solid waste, for the local furnishing of gas, or for the furnishing of water;

(B) a plant or facility used or intended for use in connection with a business enterprise;

(C) commercial activity by a small enterprise;

(6) "plant" or "facility" means real property, whether above or below mean high water, or an interest in it, and the buildings, improvements and structures constructed or to be constructed on or in it, and may include fixtures, machinery, and equipment on it or in it, and tangible personal property, regardless of whether the tangible personal property is attached to or connected with real property, if the owner has agreed not to remove the tangible personal property permanently from the state for the period the authority sets; "plant" or "facility" does not include work in process or stock in trade;

(7) Repealed by § 70 ch 106 SLA 1980;

(8) "project cost" or "cost of a project" means all or any part of the aggregate costs determined by the authority to be necessary to finance the construction, expansion, or acquisition of a project, including without limitation the cost of acquiring real or tangible personal property, and, in connection with real property, the cost of constructing buildings and improvements, the cost of constructing means of access to and from the project, the cost of constructing extensions of utility systems to the site of the project; the cost of a project includes, without limitation, the cost of financing the project, interest charges before, during or after construction, expansion, or acquisition of the project, costs related to the determination of the feasibility, planning, design or engineering of the project and, to the extent determined necessary by the authority, administrative expenses, the cost of machinery or equipment to be used in the operation of the project and expenses of installation, replacement or rehabilitation, and all other costs, charges, fees and expenses which may be determined by the authority to be necessary to finance the construction, expansion, or acquisition;

(9) "project applicant" means a business enterprise or enterprises proposing to

(A) use or occupy a project; or

(B) agree to permit others to use or occupy a project;

(10) "real property" means land and rights and interests in land, including, without limitation, interests less than full title such as easements, uses, leases, and licenses;

(11) "lease" includes, when used as a noun, an interest in, or when used as a verb, the transfer of an interest in, property less than fee simple title, including, without limitation, when used as a noun, agreements to use or occupy property;

(12) "small enterprise" means a business enterprise which is a project applicant with gross income of $10,000,000 or less for its annual reporting period ending immediately before the application to the authority for a loan;

(13) Repealed by § 51 ch 115 SLA 1981.

(14) Repealed by § 51 ch 115 SLA 1981.

(15) Repealed by § 51 ch 115 SLA 1981.

(16) "commercial activity" includes work in process or activity involving stock in trade, accounts receivable, or the refinancing of existing indebtedness, subject to the provisions of AS 44.88.158. (§ 1 ch 64 SLA 1967; am §§ 4, 5 ch 64 SLA 1977; am § 70 ch 106 SLA 1980; am §§ 43 — 47, 51 ch 115 SLA 1981)

Effect of amendments. — The 1981 amendment, effective July 28, 1981, substituted "for any business purpose, other than" for "which is not organized" in paragraph (2). The amendment rewrote paragraphs (5) and (12). In paragraph (8), the amendment added "expansion" following "construction" in three places. The amendment also added paragraph (16) and repealed paragraph (13) which defined "tourism enterprise," repealed paragraph (14) which defined "commercial fishing enterprise" and repealed paragraph (15) which defined "mining enterprise."

SB
784

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 784:

Would require A.P.A. to provide 10 days notice to the State Bond Committee and the Legislative Budget and Audit committee, if it decides to issue bonds secured by a capital reserve fund. The notification would have to include the amount of the capital reserve fund to be established, the amount of bonds to be issued, and the total cost of the project for which bonds are issued. Also must be accompanied by an estimate (by A.P.A) of the need to withdraw money from the fund during the term of the bond issue, the amount necessary to withdraw, and an estimate of the time at which withdrawals are to be needed. Each year the A.P.A. would be required to submit a revised estimate, considering the same factors, and a statement of all withdrawals from the date of bond issuance to the end of the calendar year. The revised estimate would have to be submitted to the bond committee and the Legislative Budget and Audit Committee by January 30th of the following year.

Effect of amendment. — The 1978 amendment so changed this section as to make a detailed comparison impracticable. Among other things, however, it designated the former provisions of this section as subsection (a) and added subsection (b).

Article 3. Financial Provisions.

Section
100. Bonds of the authority
110. Trust indentures and trust agreements.
120. Validity of pledge
130. Nonliability on bonds
140. Pledge of the state
150. Tax exemption
160. Bonds legal investments for fiduciaries

Sec. 44.83.100. Bonds of the authority. (a) The authority may borrow money and may issue bonds, including but not limited to bonds on which the principal and interest are payable (1) exclusively from the income and receipts or other money derived from the project financed with the proceeds of the bonds; (2) exclusively from the income and receipts or other money derived from designated projects whether or not they are financed in whole or in part with the proceeds of the bonds; (3) from its income and receipts or other assets generally, or a designated part or parts of them; or (4) from one or more revenue-producing contracts including a contract providing for the security of the bonds made by the authority with any person. The authority may issue bonds to pay, fund or refund the principal of, or interest or redemption premiums on, bonds issued by it, whether or not the bonds or interest to be funded or refunded have become due.

(b) Bonds shall be authorized by resolution of the authority, and shall be dated and shall mature as the resolution may provide, except that no bond may mature more than 50 years from the date of its issue. Bonds shall bear interest at the rates, be in the denominations, be in the form, either coupon or registered, carry the registration privileges, be executed in the manner, be payable in the medium of payment, at the places, and be subject to the terms of redemption which the resolution or a subsequent resolution may provide.

(c) All bonds, regardless of form or character, shall be negotiable instruments for all the purposes of the Uniform Commercial Code.

(d) All bonds may be sold at public or private sale in the manner, for the price or prices, and at the time or times which the authority may determine. (§ 1 ch 278 SLA 1976)

Sec. 44.83.110. Trust indentures and trust agreements. (a) In the discretion of the authority, an issue of bonds may be secured by a trust indenture or trust agreement between the authority and a corporate trustee (which may be a trust company, bank, or national banking association, with corporate trust powers, located inside or outside the state) or by a secured loan agreement or other instrument or under a resolution giving powers to a corporate trustee by means of which the authority may

(1) make and enter into any and all the covenants and agreements with the trustee or the holders of the bonds which the authority may determine to be necessary or desirable, including, without limitation, covenants, provisions, limitations and agreements as to

(A) the application, investment, deposit, use and disposition of the proceeds of bonds of the authority or of money or other property of the authority or in which it has an interest;

(B) the fixing and collection of rentals, charges, fees or other consideration for, and the other terms to be incorporated in, contracts with respect to a project or to generated power;

(C) the assignment by the authority of its rights in contracts with respect to a project or to generated power or in a mortgage or other security interest created with respect to a project or generated power to a trustee for the benefit of bondholders;

(D) the terms and conditions upon which additional bonds of the authority may be issued;

(E) the vesting in a trustee of rights, powers, duties, funds or property in trust for the benefit of bondholders, including, without limitation, the right to enforce payment, performance, and all other rights of the authority or of the bondholders, under a lease, power of contract, contract of sale, mortgage, security agreement, or trust agreement with respect to a project by injunction or other proceeding or by taking possession of by agent or otherwise and operating a project and collecting rents or other consideration and applying the same in accordance with the trust agreement;

(2) pledge, mortgage or assign money, leases, agreements, property or other rights or assets of the authority either presently in hand or to be received in the future, or both; and

(3) provide for any other matters of like or different character which in any way affect the security or protection of the bonds.

(b) Notwithstanding any other provisions of this chapter, the trust agreement shall contain a covenant by the authority that it will at all times maintain rates, fees or charges sufficient to pay, and that a contract entered into by the authority for the sale, transmission or distribution of power shall contain rates, fees or charges sufficient to pay the costs of operation and maintenance of the project, the principal of and interest on bonds issued under the trust agreement as the same severally become due and payable, to provide for debt service coverage as considered necessary by the authority for the marketing of its bonds and to provide for renewals, replacements and improvements of the project, and to maintain reserves required by the terms of the trust agreement.

(c) For the purpose of securing any one or more issues of its bonds, the authority may establish one or more special funds, called "capital reserve funds", and shall pay into those capital reserve funds the proceeds of the sale of its bonds and any other money which may be

made available to the authority for the purposes of those funds from any other source. The funds shall be established only if the authority determines that the establishment would enhance the marketability of the bonds. All money held in a capital reserve fund, except as provided in this section, shall be used as required, solely for (1) the payment of the principal of, and interest on, bonds or of the sinking fund payments with respect to those bonds, (2) the purchase or redemption of bonds, or (3) the payment of a redemption premium required to be paid when those bonds are redeemed before maturity; however, money in a fund may not be withdrawn from it at any time in an amount which would reduce the amount of that fund to less than the capital reserve requirement set out in (2) of this subsection, except for the purpose of making, with respect to those bonds, payment, when due, of principal, interest, redemption premiums and the sinking fund payments for the payment of which other money of the authority is not available. Income or interest earned by, or increment to, a capital reserve fund, due to the investment of the fund or any other amounts in it, may be transferred by the authority to other funds or accounts of the authority to the extent that the transfer does not reduce the amount of the capital reserve fund below the capital reserve fund requirement.

(d) If the authority decides to issue bonds secured by such a capital reserve fund, the bonds may not be issued if the amount in the capital reserve fund is less than such an amount as may be established by resolution of the authority (called the "capital reserve fund requirement"), unless the authority, at the time of issuance of the obligations, deposits in the capital reserve fund from the proceeds of the obligations to be issued or from other sources, an amount which, together with the amount then in the fund, will not be less than the capital reserve fund requirement.

(e) In computing the amount of a capital reserve fund for the purpose of this section, securities in which all or a portion of the funds are invested shall be valued by some reasonable method established by the authority by resolution. Valuation on a particular date shall include the amount of any interest earned or accrued to that date.

(f) The chairman of the authority shall annually, no later than January 2, make and deliver to the governor and the legislature his certificate stating the sum, if any, required to restore any capital reserve fund to the capital reserve fund requirement. The legislature may appropriate such a sum, and all sums appropriated during the then current fiscal year by the legislature for such restoration shall be deposited by the authority in the proper capital reserve fund. Nothing in this section creates a debt or liability of the state.

(g) When the authority has created and established a capital reserve fund, the commissioner of revenue may lend surplus money in the general fund to the authority for deposit in a capital reserve fund in an amount equal to the capital reserve fund requirement. The loans shall

be made on such terms and conditions as may be agreed upon by the commissioner of revenue and the authority, including without limitation terms and conditions providing that the loans need not be repaid until the obligations of the authority secured and to be secured by the capital reserve fund are no longer outstanding. (§ 1 ch 278 SLA 1976; am §§ 13, 14 ch 156 SLA 1978)

Effect of amendment. — The 1978 amendment in paragraph (1) of subsection (a), added "or to generated power" to the end of subparagraph (B), inserted "or to generated power" and "or generated power" in subparagraph (C), and substituted "by injunction" for "by mandamus" in subparagraph (E). In subsection (d), the amendment substituted "an amount" for "a per cent, not exceeding 10 per cent of the principal amount of all of those bonds secured by that capital reserve fund then to be issued and then outstanding in accordance with their terms."

Sec. 44.83.120. Validity of pledge. It is the intention of the legislature that a pledge made in respect of bonds shall be valid and binding from the time the pledge is made; that the money or property so pledged and thereafter received by the authority shall immediately be subject to the lien of the pledge without physical delivery or further act; and that the lien of the pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the authority irrespective of whether the parties have notice. Neither the resolution, trust agreement nor any other instrument by which a pledge is created need be recorded or filed under the provisions of the Uniform Commercial Code to be valid, binding or effective against the parties. (§ 1 ch 278 SLA 1976)

Sec. 44.83.130. Nonliability on bonds. (a) Neither the members of the authority nor a person executing the bonds is liable personally on the bonds or is subject to personal liability or accountability by reason of the issuance of the bonds.

(b) The bonds issued by the authority do not constitute an indebtedness or other liability of the state or of a political subdivision of the state, except the authority, but shall be payable solely from the income and receipts or other funds or property of the authority. The authority may not pledge the faith or credit of the state or of a political subdivision of the state, except the authority, to the payment of a bond and the issuance of a bond by the authority does not directly or indirectly or contingently obligate the state or a political subdivision of the state to apply money from, or levy or pledge any form of taxation whatever to the payment of the bond. (§ 1 ch 278 SLA 1976)

Sec. 44.83.140. Pledge of the state. The state pledges to and agrees with the holders of bonds issued under this chapter and with the federal agency which loans or contributes funds in respect to a project that the state will not limit or alter the rights and powers vested in the authority by this chapter to fulfill the terms of a contract made by the

SB
798

COMMITTEE REPORT

SENATE

2/16/82

FURTHER: None

Date: 10 MARCH 1982

Mr. President:

The Committee on LABOR & COMMERCE has had SB 798

relating to title insurance rating organizations

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends

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

[ ] reports it back without recommendation

[ ] referred to the Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

DIVISION OF INSURANCE

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2515

LEGISLATIVE POSITION PAPER
SB 798 and HB 846
March 8, 1982

SB 798 and HB 846 are identical proposals relating to title insurance rating organizations. The proposal would permit the use of a title insurance rating organization by title insurance companies doing business in this state. Current Alaska law regulating title insurance (AS 21.66) derives from a model law drafted by the American Land Title Association which includes a provision for title insurance rating organizations. This provision was not included when the current Alaska title insurance law was adopted in 1974. This was due primarily to the objections of this division. It was felt that rating organizations for title insurance would not be in the best interest of the Alaska insuring public.

Rating organizations typically develop anf file rates, rules, rating plans, statistical plans, contract forms and endorsements on behalf of member and subscriber companies. They enable companies to act together in these issues and provide a broader base of experience and credibility for the rates used as well as reduce insurance company expenses by avoiding duplication of some rate development functions. Insurers are able to act in this fashion because of enabling Federal legislation, namely, the McCarran-Ferguson Act (Public Law No. 15, 79th Congress, 1st Session 1945, 59 Stat. 33, 15 U.S.C. Secs. 1011-1015). This approach has been used in property, casualty, surety and marine lines of insurance for most of this century. Rating organizations have been viewed as anti-competitive devices in the property, casualty, surety and marine field and indeed some modification of their role in those markets should be and is being considered.

The marketing of title insurance is distinctly different from property, casualty, surety and marine kinds of insurance. Competition is structured differently. This is due in part to the fact that title insurance is almost always an incidental part of a transaction involving real estate. It is also due in part to the fact that while most other kinds of insurance are based on a rate making methodology that reflects

risk assumption and distribution, title insurance is based on a methodology that looks to risk avoidance or risk elimination. There is no one way to establish and support rates for title insurance in this state. In fact the principal method currently is to follow the leader. We have concluded that the best way to develop a rate-making methodology with all that is needed to support such a system is to enable a rating organization for title insurance. It would admittedly provide a rating system with uniform rates, but we have rates that are uniform now. It would provide a vehicle for developing supportive statistics and distributing information to the public. We believe that a title insurance rating organization could provide a positive and favorable force in this state and assist the division to effectively meet its responsibilities under the insurance law of Alaska.

We have one principal concern with the bill. That concern is that current problems with the divisions procedures for disapproving a filing relating to title insurance would be compounded with passage of this proposal. AS 21.66.400 now provides that the division can only disapprove a filing after a hearing has been held. We would propose that the authority to disapprove a filing without first holding a hearing be granted. Our proposal would still provide for a hearing when it is requested by the person which made the disapproved filing. This approach is currently incorporated in the property, casualty, surety and marine rate law (AS 21.39.120). Given this change (proposed language attached) we support the enabling authority for a title insurance rating organization proposed in SB 798 and HB 846.

Suggested amentments to SB 798 and HB 846

In both bills, remove the material on page 3, lines 5 through 29 and page 4, lines 1 through 15 and replace with the following:

CURRENT LAW	PROPOSED LAW	COMMENTS
Sec. 21.66.400. Disapproval of filings. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective, if the filing or a part of it has become effective under the provisions of sec. 370 of this chapter. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	Sec. 21.66.400. DISAPPROVAL OF FILINGS. (a) If within the waiting period provided for in sec. 370(c) of this chapter, the directdr finds that a filing does not meet the requirements of this chapter, he shall send to the title insurance company or title insurance rating organization which made the filing, written notice of disapproval of the filing specifying in what respects he finds the filing fails to meet the requirements of this chapter and stating that the filing shall not become effective. (b) If at any time subsequent to the applicable review period provided for in sec. 370(c) of this chapter, the director finds that a filing does not meet the requirements of this chapter, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of hearing shall be given to each title insurance company or title insurance rating organization which made the filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of this chapter, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective. A title insurance company of title insurance rating organization has the right to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company and title insurance rating organization affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	The proposed law splits the current subsection (a). The new subsection (a) allows disapproval of a title filing, when done within the waiting period, without a hearing. The new subsection (d) provides for a hearing in such cases when requested. This procedure is the same as is now being used for property, casualty, surety and marine insurance regulated under AS 21.39. The new subsection (b) is the same procedure applied to filings to be disapproved after the filing has become effective. The only difference basically is the added language for title insurance rating organizations.

CURRENT LAW	PROPOSED LAW	COMMENTS
(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding such a hearing, he shall within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	(c) A person or organization aggrieved with respect to a filing which is in effect may make a written application to the director for a hearing on the filing. The title insurance company or title insurance rating organization that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 60 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company or title insurance rating organization which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of this chapter, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of this chapter, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every affected title insurance company or title insurance rating organization. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.	Current subsection (b) is the same as proposed subsection (c) except that title insurance rating organizations have been reflected and the period for granting a hearing under the subsection has been extended from 30 days to 60 days. The real effect is to require notice of hearing within 50 days rather than 20 days.

CURRENT LAW	PROPOSED LAW	COMMENTS
NONE	(d) A title insurance company or title insurance rating organization to which the director has issued an order made without a hearing may, within 30 days after notice to it of the order, make a written request to the director for a hearing. The director shall hear the party or parties within 60 days after receipt of the request and shall give not less than 10 days written notice of the time and place of the hearing. Within 15 days after the hearing the director shall affirm, reverse or modify his previous action, specifying his reasons. Pending the hearing and decision the director may suspend or postpone the effective date of his previous action.	This subsection has been noted in the discussion relating to the splitting of current subsection (a).
NONE	(e) A hearing under this section is not required to observe formal rules of pleading or evidence.	This is a new subsection and is selfexplanatory.
(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	(f) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of this chapter.	Current subsection is identical to proposed subsection (f).

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SB 798 Sectional Analysis:

Section 1) Amends As 21.66.370(a) relating to title insurance rate filings; new language provides that a title insurance company may make rate filings by becoming a mamber, or a subscriber, to a licensed title insurance rating organization that makes such filings, and by authorizing the commissioner to accept filings on its behalf.

Section 2) Amends As 21.66.370(c) relating to 30 day waiting periods and extensions for review of rate filings by the director of insurance. Inserts the words "or rating organization" following title insurance company throughout the section.

Section 3) Amends AS 21.66.380(a) relating to justification of rates by inserting the words or title rating organization throughout the section.

Section 4) Amends section dealing with rate making; inserting words title insurance rating organization throughout the section.

Section 5) and 6): relating to disapproval of filings inserting the words title insurance rating organization throughout the section.

Section 7)A.adds new section relating to licensing title insurance rating organizations and specifies criteria to be addressed as part of the application:

(1) a copy of its constitution, its articles of agreement, or its certificate of incorporation and a copy of its bylaws and rules governing the the conduct of its business;
(2) A list of its members and subscribers;
(3) the name and address of a resident of the state upon whom notices or orders of the director or process affecting the rating organization may be served; and
(4) A statement of its qualifications as a title insurance rating organization

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SB 798 continued:

Section 7 (b): If the director finds the applicant to be qualified as a title insurance rating organization, and its rules governing the conduct of its business conform to the requirements of the law, the director shall issue to the title insurance rating organization a license. Each application shall be granted or denied in whole or in part within 60 days after the date of filing with the Director of Insurance.

(c): The fee for a license is $100, and the license remains in effect for three years unless it is withdrawn by the licensee, or suspended or revoked by the director.

(d): a title insurance rating organization license may be suspended or revoked by the director, after a hearing and upon notice, if the organization fails to meet the requirements of this subsection. Each title insurance rating organization shall notify the director of a change in:

(1) its constitution, articles of agreement, or its certificate of incorporation, and its bylaws and rules governing the conduct of its business.

(2) its list of members and subscribers

(3) the name and address of a resident of the state designated by it and to whom notices or orders of the director may be sent.

(e): Subject to rules that have been approved by the director, each title insurance rating organization shall permit any title insurance company to be a member without discrimination, or to withdraw as a member, and rating services shall be at a reasonable cost.

(f) Notice of a rpoposed change in rules of the tile insurance rating organization must be given to members and subscribers. The reasonableness of a rule or the refusal of a rating organization to admit a title insurance company as a subscriber shall, at the request of a subscriber or a title insurance company, be reviewed by the director, at a hearing held at least 10 days after written notice to the rating organization and to the subscriber. If the director finds that the rule is unreasonable, he shall order that the rule may not apply to subscribers. If the title insurance

rating organization fails to grant or reject an application for subscribership within 30 days, the title insurance company may request a review by the director as if the applicaiton had been rejected. If the director finds that the title insurance company has been refused admittance to the rating organization without justification, he shall order the rating organization to admit them. If he finds the action was justified, he shall make an order affirming the action.

(g) Concert of action among title insurance companies and rating organizations is authorized if the resulting filing is subject to the porvisions of this section that apply to filings generally.

(h) Two or more title insurance companies who are members of a rating organization may act in concert with each other with respect to rate making, policy forms, underwriting rules, surveys, inspections and investigations, loss and expense data, and researc

(i) the director may review activities and rpactices of the rating orgaiztion, and if after a hearing, he finds the action inconsistent with the provisions of this section, he may issue a written order requiring the discontinuance of the practice.

Sec 21.66.402 DEVIATIONS FROM FILINGS OF RATING ORGANIZATIONS each member of a rating organization must adhere to the filings made in its behalf, except that a title insurance company may file with the director a decrease or increase to be applied to the rates of a rating organization, if the increase or decrease is found by the director to be a proper rating for a particular area. The filing must specify the basis for the deviaiton in the rating, and a copy of the filing and data shall be sent to the rating organization. Each deviation shall be in effect for one year, unless terminated with the approval of the director or in accordance with the provisions of AS 21.66.400.

Sec 21.66.403 APPEAL FROM ACTION OF RATING ORGANIZATION. A member of a ratin organization may appeal to the director an action from the rating organization approving or rejecting a proposed change in the filing of a rating organization. If the rating organization fail to act on a submission (proposal) within 30 days, it shall mean a rejection of the proposal.

(b) The director shall, after a hearing held with at least 10 days written notice to the appellant and rating organization, issue an order approving the decision of a rating organization, or an order directing the rating organization to give further consideration to the proposal, and take action within 30 days.

(c) If the director finds that the action on an appeal, by the rating organization, was unreasonable, he may issue an order to the rating organization to make an addition to its filing, in a manner consistent with his findings, and within a reasonable time afte the issuance of his order. If either the action of the rating organization (proposed changes in rate filings) or the modificaiton proposed by the appellant is in accordance with this chapter, the director shall approve the action.

(d) An appeal, based on the failure of a rating organization to make a filing on

on behalf of a member, in accordance with the rights granted in AS 21.66.390, the director shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding the appeal, the director shall apply the standards set out in AS 21.66.390.

Section 8 Amends AS 21.66.410 (c) inserts the phrase title insurance rating organization in the presently established section.

Section 9 Addresses the prohibition against giving false or misleading information to the title insurance rating organization by title insurance companies or agents which would effect filing rates allowable under this chapter.

Section 10) Adds title insurance rating organizations to the list of organizations which may have a penalty imposed by the director for violations of this chapter.

Section 11) Adds title insurance rating organizations to whom the director may suspend the certificate of authority for failure to comply with an order of the director within the time limit allowed by the order. Certificate may not be suspended until the time for an appeal has expired, or if an appeal has been taken, until the order has been affirmed.

Section 12) Immediate effective date.

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SB 798; Summary

Allows a title insurance company to become a member of a title insurance rating organization in order to satisfy its obligations in filing schedules, and rules and plans relating to schedules of rates or manuals of classification, and modifications it proposes to use in the state.

The director, Div of Insurance, may issue licenses to title insurance rating organizations, if he finds the applicant competent, trustworthy, and qualified. License to be in effect for three years, and may be suspended or revoked if the organization ceases to meet its requirements. Rating organizations must allow any title insurance company to become a member at a reasonable cost. Mmebers or subscribers must adhere to filings made on its behalf except that the company may file a decrease or increase to be applied to any element of the rates produced by the rating system for a class of title insurance that is found, by the director, to be a proper rating unit for the application of the decrease or increase, or to be applied to the rates for a particular area. Further grants the right to appeal to the director, actions and decisions of the rating organization.

Makes amendments to the various sections dealing with title insurance companies to include title rating organizations (rate filing, justification of rates, making of rates, disapproval of filings, false or misleading information and penalties.)

Sec. 21.66.330. Examination of records. If the director has reason to believe that a title insurance agent has violated or is in violation of AS 21.66.310, he shall immediately examine the title insurance agent's books of account and record and vouchers pertaining to the business of title insurance. The title insurance agent shall pay to the director the cost of an examination conducted under this section. (§ 6 ch 120 SLA 1974)

Sec. 21.66.340. Additional penalty for rebates. A person who violates AS 21.66.310 is liable to the state for five times the amount or value of the rebate, reduction, or abatement of any rate or charge made incident to the issuance of title insurance, or a special favor or advantage, or a monetary consideration or inducement. (§ 6 ch 120 SLA 1974)

Sec. 21.66.350. Division of rates. Nothing in AS 21.66.010 — 21.66.480 prohibits the division of rates and charges between or among a title insurance company and its agent, two or more title insurance companies, one or more title insurance companies and one or more title insurance agents, or two or more title insurance agents, if the division of rates and charges does not constitute an unlawful rebate [illegible] not in payment of a forwarding fee or finder's fee. (§ 6 ch 120 SLA 1974)

Sec. 21.66.360. Purpose of title insurance rate regulation. The purpose of AS 21.66.370 — 21.66.400 is to promote the public welfare by regulating title insurance rates so that they are not excessive, inadequate or unfairly discriminatory, and to authorize cooperative action between or among title insurance companies in rate making and other matters within the scope of AS 21.66.010 — 21.66.480. Nothing in AS 21.66.010 — 21.66.480 is intended to prohibit or discourage uniformity in title insurance rates, rating systems and rating plans and practices. (§ 6 ch 120 SLA 1974)

Sec. 21.66.370. Rate filing. (a) A title insurance company shall file with the director its schedules of rates, manuals of classifications, rules and plans relating to schedules of rates or manuals of classification, and every modification of the schedules or manuals which it proposes to use in this state. A filing under this section shall contain the effective dates of the documents filed, and indicate the character and extent of the coverage contemplated.

(b) The director shall review the filings as necessary to carry out the provisions of AS 21.66.010 — 21.66.480.

(c) Subject to the provisions of (e) of this section, each filing shall be on file for a period of 30 days before it becomes effective. The director may, upon written notice given within the 30-day period to the person making the filing, extend the waiting period for an additional period, not to exceed 30 days, in order to complete the review of the filing. Additional extensions of the waiting period may also be made with the

consent of the title insurance company. Upon written application by the title insurance company, the director, after review of the application, may authorize a filing or any part of it to become effective upon the expiration of the waiting period or its extension.

(d) Except for rates filed under (e) of this section, a filing which has become effective is considered to meet the requirements of AS 21.66.010 — 21.66.480.

(e) When the director finds that a rate for a particular kind or class of risk cannot practicably be filed before it is used, or any contract or kind of title insurance, by reason of rarity or peculiar circumstances, does not lend itself to advance determination and filing of rates, he may, under appropriate regulations, permit the rate to be used without a previous filing and waiting period.

(f) Beginning November 12, 1974, no title insurance company or agent of a title insurance company may charge a rate for a policy or contract of title insurance except in accordance with filings or rates which are in effect for the title insurance company as provided in AS 21.66.010 — 21.66.480.

(g) The director may not regulate, or require the filing of, rates paid by title insurance companies for reinsurance contracts or agreements, or policies of excess co-insurance. (§ 6 ch 120 SLA 1974)

Sec. 21.66.380. Justification for rates. (a) A rate filing shall be accompanied by a statement of the title insurance company making the filing, setting out the basis on which the rate was determined, with the rates computed. A filing of rates may be justified by the following:

(1) the experience or judgment of the title insurance company making the filing,

(2) its interpretation of any statistical data relied upon,

(3) the experience of other title insurance companies making the filings, or

(4) any other factors which the title insurance company considers relevant.

(b) The statement and justification provided for in this section shall be open to public inspection. (§ 6 ch 120 SLA 1974)

Sec. 21.66.390. Making of rates. (a) A title insurance company that makes its own rates shall make rates that are not excessive or inadequate and which do not unfairly discriminate between risks in this state which involve essentially the same exposure to loss and expense elements, and which give due consideration to the following matters:

(1) the desirability for stability of rate structures;

(2) the necessity of assuring the financial solvency of title insurance companies in period of economic depression by encouraging growth in assets of title insurance companies in periods of high business activity; and

(3) the necessity for assuring a reasonable margin of underwriting and operating profit.

(b) A title insurance company that makes its own rates shall adopt basic classifications of policies or contracts of title insurance which shall be used as the basis for rate-making. (§ 6 ch 120 SLA 1974)

Sec. 21.66.400. Disapproval of filings. (a) Upon the review at any time by the director of a filing, he shall, before issuing an order of disapproval, hold a hearing upon not less than 10 days written notice, specifying in reasonable detail the matters to be considered at the hearing. Notice of the hearing shall be given to each title insurance company which made a filing, and if, after the hearing, the director finds that the filing or a part of the filing does not meet the requirements of AS 21.66.010 — 21.66.480, he shall issue an order specifying how it is deficient, and when, within a reasonable period thereafter, the filing or a part of it is considered no longer effective, if the filing or a part of it has become effective under the provisions of AS 21.66.370. A title insurance company has the right at any time to withdraw a filing or a part of a filing. Copies of the order issued under this section shall be sent to every title insurance company affected. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(b) A person or organization aggrieved with respect to a filing which is in effect, may make written application to the director for a hearing on the filing. The title insurance company that made the filing may not proceed under this subsection. The application shall specify in reasonable detail the grounds to be relied upon by the applicant. If the director finds that the application is made in good faith, and that the applicant would be aggrieved if his grounds are established, and that his grounds otherwise justify holding a hearing, he shall, within 30 days after receipt of the application, hold a hearing upon not less than 10 days written notice to the applicant and to each title insurance company which made such a filing. If, after the hearing, the director finds that the filing or a part of it does not meet the requirements of AS 21.66.010 — 21.66.480, he shall issue an order specifying how the filing or a part of it fails to meet the requirements of AS 21.66.010 — 21.66.480, stating when, within a reasonable period after the order is issued, the filing or a part of it is considered no longer effective. Copies of the order shall be sent to the applicant and to every such title insurance company. The order does not affect a contract or policy made or issued before the expiration of the period set out in the order.

(c) No filing or modification of a filing may be disapproved if the rates in connection with the filing meet the requirements of AS 21.66.010 — 21.66.480. (§ 6 ch 120 SLA 1974)

Sec. 21.66.410. Rate administration. (a) The director may prescribe by regulation (1) guidelines reasonably adaptable to each of the

rating systems on file with him; (2) a uniform classification of accounts to be observed, (3) statistics to be reported; and (4) uniform forms for reporting this data by all title insurance companies.

(b) Regulations may be promulgated by the director for the interchange of data necessary for the application of rating plans.

(c) In order to more uniformly administer rate regulations, the director and each title insurance company may exchange information and experience data with insurance supervisory officials, title insurance companies and title insurance rating organizations in other states, and may consult with them and with each other with respect to rate making and the application of rating systems. (§ 6 ch 120 SLA 1974)

Sec. 21.66.420. False or misleading information. No title insurance company or title insurance agent may wilfully withhold information from, or knowingly give false or misleading information to the director. (§ 6 ch 120 SLA 1974)

Sec. 21.66.430. Penalties. (a) The director may, if he finds that a title insurance company, or title insurance agent has violated a provision of AS 21.66.010 — 21.66.480, impose a penalty of not more than $100 for each violation. However, if the violation is wilful, he shall impose a penalty of not more than $1,000 for each violation. Penalties imposed under this section are in addition to any other penalties provided by law.

(b) In addition to the penalty provided in (a) of this section, the director may suspend the certificate of authority of a title insurance company, or title insurance agent upon failure to comply with an order of the director within the time limit allowed by the order. No certificate of authority may be suspended for failure to comply with an order until the time prescribed for an appeal has expired, or, if an appeal has been taken, until the order has been affirmed.

(c) The director may determine when a suspension of a certificate of authority becomes effective, and it remains in effect until modified or rescinded by the director or until the order upon which the suspension is based is modified, rescinded or reversed.

(d) No penalty may be imposed and no certificate of authority may be suspended or revoked except upon a written order of the director, stating his findings, and made after a hearing held upon not less than 10 days written notice to the person or organization, specifying the alleged violation. (§ 6 ch 120 SLA 1974)

Sec. 21.66.440. Existing filings and hearings continued. All title insurance manuals of classifications, rules and rates, rating plans and their modifications filed before August 14, 1974 shall be considered to have been filed under AS 21.66.010 — 21.66.480. All hearings and investigations pending before August 14, 1974 shall be continued under AS 21.66.010 — 21.66.480. (§ 6 ch 120 SLA 1974)


SB
800

SB 800

An Act establishing a direct interest subsidy program to subsidize the interest paid by residents on loans for multi-family housing; and providing for an effective date

The fiscal note for SB 800 is based on the following information and assumptions:

NEW CONSTRUCTION

A) The FY'81 and FY'82 (8 months) figures for number of loans made by AHFC were used as a base. It is assumed that AHFC made 90% of the loans in the State in these areas.

Year	Total Loans	Single Family Dwellings	Duplexes	Duplex Units Built	% Units Duplex/Singles
FY 1981	6,426	6,058	378	756	12.4%
FY 1982	5,227	4,948	279	558	11.3
Total	11,663	11,006	657	1,314	11.9
Average	7,000	6,606	394	788 ÷ 90% = 876 units (est. avg. market)	11.9

B) Anchorage housing is composed of the following categories (in terms of units as opposed to dwellings):

Single Family	30,097
Duplexes (units)	6,040
3-4 units	6,211
5-19 units	9,356
20+ units	6,036

Total # units at the 4-20 unit level is 14,712 or 2.346 units at the 4-20 unit level to every duplex unit.

C) Estimated cost per unit:

Juneau/Ketchikan (weak current market)	$	46,000	20%
Anchorage (strong current market)		48,000	55%
Fairbanks (moderate market) plus cost of living differential of 14% over average Juneau and Anchorage costs		53,600	25%
Weighted Average	$	49,000	

D) Estimated Average Market (see A above) 876
Times ratio of subsidy unit level (see B above) x 2.346
= Estimated # of units in multiple unit market times average cost per unit 2,055 units
x 49,000

= Estimated market $100,695,000

E) Estimated market of $100,695,000 amortized at 5% subsidy for 30 year loans to total $93,903,910 subsidy cost for new multiple dwelling units.

PURCHASE OF PREVIOUSLY CONSTRUCTED UNITS

A) If the current number of units in Anchorage at the 4-20 unit level is 14,712 and Anchorage is 55% of the State market then there are approximately 25,767 units Statewide.

B) If the number of units which are purchased annually is 5% and the average cost is $42,000, then the yearly market is approximately $54,110,700 amortized at 5% subsidy for 20 years to total $30,594,900 subsidy cost for purchased units.

SB 800
5% Subsidy on Multiple Dwellings

OPERATING COSTS

Personal Services			
Accounting Technician II	1,995 per month	$23,940 yearly	$ 23,940
Soc. Benefits (.0613)		1,468	
Variable Benefits (.1568)		3,753	
Monthly Benefits ($183 per month)		2,196	7,417
Total Personal Services			31,357
Travel - None			-0-
Contractual Services			
Postage		400	
Telephone		400	
Zerox Charges		100	
Advertising		500	1,400
Commodities			
Calculator		280	
Misc. Supplies		200	480
Space Rental		2,700	2,700
Total Operating Costs - FY 1983			$ 35,937

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION		APPROV.	DISAPP.
1	Accounting Technician II			14 A	GGU	AWA	GOV.		
2	TYPE OF POSITION: Permanent	STAFF MONTHS: 12	RP No.	PCN No.	PRIORITY: 1/1	FORM 12 PAGE/LINE	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY	23,940	
5	BENEFITS	3,753	
6	SBS	1,468	
7	FIXED BENEFITS	2,196	
8	TOTAL PERSONAL SERVICES 01		31,357
9	TRAVEL 02		
10	CONTRACTUAL 03		
11	COMMODITIES 04		
12	EQUIPMENT 05		232
13	OTHER		2,700
14	TOTAL COST		34,337

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	34,337
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION		

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. ____

JUSTIFICATION:

SB 800 would require the Department of Commerce and Economic Development to administer a direct interest subsidy program for purchase and construction of multiple dwellings within the state. Subsidies would be calculated or audited and paid to banks on a yearly basis.

AGENCY Commerce and Economic Development PROGRAM Economic Development

BRU Loan Administration

COMPONENT _____

Page ____ of ____ REVISED DATE _____

13 REQUEST FOR NEW POSITION

FY 83

01-1136 (7/81)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 800
Title An Act establishing a direct interest subsidy program to subsidize the interest paid by residents on laons for multi-family housing and providing for an effective date

Requested by _____ Date _____

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Economic Development
BRU, Program, Or Subprogram(s) Affected Division of Loans and Veterans' Affairs
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87	
100 PERSONAL SERVICES		31.4	33.3	35.3	37.4	39.6	
200 TRAVEL							
300 CONTRACTUAL		1.4	1.5	1.6	1.7	1.8	
400 COMMODITIES		.5	.5	.6	.6	.7	
500 EQUIPMENT							
600 LAND & STRUCTURES		2.7	2.9	3.0	3.2	3.4	ASHA
700 GRANTS,CLAIMS,ETC.							
800 Subsidies		124,499.0	131,968.0	139,886.0	148,279.0	157,175.0	
TOTAL		124,535.0	132,006.2	139,926.5	148,321.9	157,220.5	

FUNDING (Thousands of Dollars)

GENERAL FUND		124,532.3	132,003.3	139,923.5	148,318.7	157,217.1	
FEDERAL FUNDS							
OTHER (Specify Source)							

POSITIONS

FULL TIME		1	1	1	1	1	
PART TIME							
TEMPORARY							

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

See attached detailed analysis.

Estimated activity is impossible to predict due to lack of specific information on loan portfolios or market demand.

The calculation of the subsidies is based on the up-front appropriation of those subsidies for the life of the loan in the year that the loan is made. Subsidies would be released to the bank for each year that the loan is still in force. Without this up-front guarantee, borrowers would not participate in the subsidy program.

IV. DATE March 9, 1982 PREPARED BY D.A. Hostak Don Hostak, Director
AGENCY Department of Commerce & Economic Development
Original: Legislative Finance PHONE 465-2555 Division of

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SB 800 Summary

Establishes a direct interest subsidy program to subsidize the interest paid on loans for multi-family housing. Any Alaskan, 18 years of age, would be eligible to receive a "direct interest subsidy coupon" from the state.

When a coupon holder obtains a loan for the construction or purchase of a multi-family (4 to 20 units) dwelling in Alaska, he may present his coupon and evidence of the loan to the Department of Commerce and Economic Development. The department must then pay the lending institution amounts sufficient to reduce the interest paid by the person by 5%. No subsidy on loans over $2,000,000, and a person may have only one subsidized loan out at one time. Provides for an immediate effective date.

SB
801

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 801

Concepts are contained in the Code Revision Commission rewrite of the Alaska Corporations Code; Section 10.06.970 (5).

CODE REVISION PROJECT
719 Second Street
Suite 17
Davis, California 95616

6th of March, 1962

Elizabeth Johnston, Esquire
General Counsel
Bristol Bay Native Corporation
445 East 5th Avenue
Anchorage, Alaska 99510

Dear Ms. Johnston:

A copy of your letter to Mr. Larry Carroll, Chief Securities Examiner with the Department of Commerce and Economic Development has been forwarded to my office. For nearly two years I have been working with the Code Revision Commission in a comprehensive revision of the Alaska Business Corporation Act. The Commission has recently completed a final draft of what it has termed the Alaska Corporations Code and has transmitted it to Legislative Counsel for introduction.

Section 10.06.970. Rules of Construction and Interpretation should prove of special interest to your client. Sub-section (5) declares:

> References in this chapter to financial statements, balance sheets, income statements, and statements of changes in financial position of a corporation and references to assets, liabilities, earnings, retained earnings, and similar accounting items of a corporation mean financial statements or items prepared or determined in accordance with generally accepted accounting principles then applicable, and fairly presenting the matters which they purport to present, subject to any specific accounting treatment required by a particular section of this chapter. Unless otherwise expressly stated, references in this chapter to financial statements mean, in the case of a corporation which has subsidiaries, consolidated statements of the corporation and those of its subsidiaries as are required or

permitted to be included in the consolidated statements under generally accepted accounting principles then applicable, and all references to these accounting items mean items determined on a consolidated basis in accordance with consolidated financial statements.

You will observe that this provision of the ACC is predicated upon Section 114 of California's General Corporation Law with a slightly less baroque wording of a long overdue clarification.

At the appropriate point in which hearings are slated I would urge your attention to the provisions of the ACC and hope, that upon review, they will meet with your approval. If you have any questions please feel free to contact my office.

Sincerely,

Daniel Wm. Fessler

Daniel Wm. Fessler
Professor of Law and Consultant to the
Alaska Code Revision Commission

cc:

Ms. Katherine Walsh, Secretary
Alaska Code Revision Commission

Bristol Bay Native Corporation
4455 STH AVENUE/P.O. BOX 2201/ANCHORAGE/ALASKA 99510/PH (907)278-3602

March 10, 1982

Mr. Chairman:

My name is Elizabeth Johnston, General Counsel for Bristol Bay Native Corporation. I am here to testify in support of Senate Bill 801.

Senate Bill 801 amends the profit corporation statutes to specifically define the phrase "financial statements of the corporation." Why is this definition needed?

"Financial statements of the corporation" is a key phrase in determining a director's defense against personal liability for dividend payments. AS 10.05.219(1). Yet the phrase is ambiguous. This ambiguity creates unnecessary risks for directors attempting to comply with statutory requirements. Clarity would serve to protect directors from ex post facto definitions and liability.

The definition of "financial statements of the corporation" in Senate Bill 801 contains two basic concepts. The first is that the financial statements will be prepared according to generally accepted accounting principles then applicable. The second is that the statements will be consolidated, where appropriate. Both of these concepts are

basic to the published financial statements required by the Securities Exchange Commission to be sent to all shareholders. Both concepts have also been incorporated by the Code Revision Commission, in its working draft of the corporation statutes. The American Institute of Certified Public Accountants, the SEC and the Code Revision Commission, all endorse these concepts because they produce economically meaningful data and because they protect shareholders and creditors from the manipulation of financial data.

In short, I support the definition because it will protect directors and it will protect creditors and shareholders as well..

SENATE BILL 801

Alaska corporate law makes directors of a profit corporation jointly and severally liable for excessive dividend payments. AS 10.05.216(a). However, this same law also provides a defense or a safe harbor. A director is not liable for excessive dividends if he in good faith relied on the financial statements of the corporation for his analysis of a legal dividend source. AS 10.05.219(1).

The problem is that the scope of this defense is ambiguous. The meaning of "financial statements" is unclear and therefore, creates unnecessary risks for directors as they try to comply with dividend requirements.

The solution is to define the "financial statements of the corporation." The definition proposed in Senate Bill 601 includes, where appropriate, consolidated balance sheets and income statements prepared according to generally accepted accounting principles. While other financial documents are useful for other corporate purposes, only the preceding are useful for an analysis of a legal source for dividends under AS 10.05.219(1).

(b) A person required to designate an agent under (a) of this section and the corporation controlled by the person may not initiate an action in the courts of the state until the person complies with the provisions of (a) of this section. If the person or corporation controlled by the person initiates an action in a court of the state and the court finds that the person has not complied with (a) of this section, the court shall dismiss the action without prejudice. (§ 36 ch 123 SLA 1980)

Sec. 10.05.794. Cancellation of certificates issued and filings accepted. The commissioner may, within one year after a filing, and after written notice to the corporation or individual making a filing, cancel a certificate issued or filing accepted under AS 10.05.003 — 10.05.828, on any ground existing at the time notice of cancellation is made and on which the commissioner could have originally refused to issue the certificate or accept the filing. The notice of cancellation shall state the reason for the cancellation. A corporation or individual may request a hearing within 90 days after receipt of the notice. Cancellation becomes final if the corporation or individual does not request a hearing within 90 days after receipt of notice. Notice of cancellation shall be sent by certified mail with return receipt requested. If the return receipt is not received by the department within a reasonable time and the department has made diligent inquiry as to the address of the corporation, notice may be made by publication in a newspaper of general circulation in the vicinity of the registered office of the corporation or the address of the individual who made the filing, and the cancellation becomes final 60 days after publication of the notice. (§ 36 ch 123 SLA 1980)

Sec. 10.05.799. Identification code. The commissioner and the commissioner of revenue shall jointly establish and adopt a coded list of business activities and shall make the list available to the public. (§ 36 ch 123 SLA 1980)

Article 11. General Provisions.

Section
823. Regulations
825. Definitions

Sec. 10.05.823. Regulations. The department may adopt regulations in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650) to administer AS 10.05.003 — 10.05.828. (§ 36 ch 123 SLA 1980)

Sec. 10.05.825. Definitions. In AS 10.05.003 — 10.05.828, unless the context otherwise requires,

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

(2) "corporation" or "domestic corporation" means a corporation for profit subject to the provisions of AS 10.05.003 — 10.05.828, except a foreign corporation or a state or national bank;

(3) "department" means the Department of Commerce and Economic Development;

(4) "foreign corporation" means a corporation for profit organized under laws other than the laws of Alaska for a purpose for which a corporation may be organized under AS 10.05.003 — 10.05.828;

(5) "articles of incorporation" means the original or restated articles of incorporation and all amendments and includes articles of merger;

(6) "shares" means the units into which the proprietary interest in a corporation is divided;

(7) "subscriber" means one who subscribes for a share in a corporation before or after incorporation;

(8) "shareholder" means one who is a holder of record of a share in a corporation;

(9) "authorized shares" means the shares of all classes which the corporation may issue;

(10) "treasury shares" means shares which have been issued, have been subsequently acquired by and belong to the corporation, and have not, either by reason of the acquisition or thereafter, been cancelled or restored to the status of authorized but unissued shares; treasury shares are "issued" shares, but not "outstanding" shares;

(11) "net assets" means the amount by which the total assets of a corporation, excluding treasury shares, exceed the total debts of the corporation;

(12) "stated capital" means, at any particular time, the sum of

(A) the par value of all issued shares which have a par value,

(B) the amount of the consideration received by the corporation for all issued shares which do not have a par value, except that part of the consideration allocated to capital surplus as permitted by law, and

(C) such amounts not included in (A) and (B) of this paragraph which have been transferred to stated capital, whether upon the issue of shares as a share dividend or otherwise, less all reductions made as permitted by law; but notwithstanding the manner of designation by the laws under which a foreign corporation is organized, the stated capital of a foreign corporation is determined on the same basis and in the same manner as the stated capital of a domestic corporation for the purpose of computing charges imposed by AS 10.05.003 — 10.05.828, fees, and franchise taxes;

(13) "surplus" means the excess of the net assets of a corporation over its stated capital;

(14) "earned surplus" means the portion of the surplus of a corporation equal to the balance of its net profits, income, gains and losses from the date of incorporation, or from the latest date when a deficit was eliminated by an application of its capital surplus or stated capital

otherwise, after deducting subsequent distributions to shareholders and transfers to stated capital and capital surplus to the extent the distributions and transfers are made out of earned surplus;

(15) "capital surplus" means the entire surplus of a corporation other than its earned surplus;

(16) "insolvent" means inability of a corporation to pay its debts as they become due in the usual course of its business;

(17) "franchise tax" means the annual corporation tax imposed under Alaska law on corporations;

(18) "affiliate" means a person that directly or indirectly through one or more intermediaries controls, or is controlled by, or is under common control with, a corporation subject to AS 10.05.003 — 10.05.828;

(19) "control" means

(A) owning directly or indirectly, or having the power to vote, 25 percent or more of any class of voting securities of a corporation subject to AS 10.05.003 — 10.05.828; or

(B) influencing or affecting in any substantive manner the election of a majority of the directors or trustees of a corporation subject to AS 10.05.003 — 10.05.828;

(20) "person" means an individual, a corporation, a partnership, an association, a joint-stock company, an estate, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated association, a government, a political subdivision of a government, or a combination of these entities;

(21) "reorganization" means a "reorganization" as that word is defined by § 368(a)(1)(A)—(D) of the Internal Revenue Code of 1954 as it exists on the effective date of this Act.

(22) "alien" means

(A) an individual who is not a citizen or national of the United States, or who is not lawfully admitted to the United States for permanent residence, or paroled into the United States under the Immigration and Nationality Act (8 U.S.C. §§ 1101 — 1503), as amended;

(B) a person, other than an individual, that was not created or organized under the laws of the United States or of a state, or whose principal place of business is not located in any state; or

(C) a person, other than an individual, that was created or organized under the laws of the United States or of a state, or whose principal place of business is located in a state, and which is controlled by a person described in (A) or (B) of this paragraph;

(23) "state" means any of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, the Trust Territory of the Pacific Islands, or any other territory or possession of the United States;

(24) "five percent shareholder" means a person owning at least five percent of the shares, or five percent of any class of shares, of a corporation. (§ 2 ch 126 SLA 1957; am § 2 ch 168 SLA 1957; § 10 ch 64 SLA 1959; am § 2 ch 1 SLA 1961; am § 1 ch 80 SLA 1965; am § 6 ch 145 SLA 1975; am § 62 ch 218 SLA 1976; am §§ 37 — 40 ch 123 SLA 1980)

Effect of amendments. — The 1975 amendment added paragraphs (18) through (21).

The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce" in paragraph (1) and "Department of Commerce and Economic Development" for "Department of Commerce" in paragraph (3).

The 1980 amendment added "or his designee" at the end of paragraph (1), rewrote paragraph (19), inserted "an estate", substituted "association" for "organization", deleted "or" preceding "a political", added "or a combination of these entities", all in paragraph (20), and added paragraphs (22)-(24).

Editor's notes. — Section 7, ch. 145, SLA 1975, provides: "It is the intent of the legislature to adopt the definitions for 'affiliate' and 'control' as those terms are in use and have been interpreted by the United States Securities Exchange Commission on the effective date of this Act."

Legislative history reports. — For report on ch. 145, SLA 1975 (CSSB 376 am H), see 1975 Senate Journal, p. 1028.

Chapter 10. Business and Industrial Development Corporation Act.

Section	Section
10. Incorporators	150. Examinations
20. Assistance of commissioner	185. Cancellation of certificates issued and filings accepted
30. Articles of incorporation	210. Definitions
40. General powers	
110. Amendment of articles	

Sec. 10.10.010. Incorporators. Three or more persons, who are residents of this state, who desire to create an industrial development corporation under AS 10.10.010 — 10.10.220 for the purpose of promoting, developing, and advancing the prosperity and economic welfare of the state and, to that end, to exercise the powers and privileges provided in AS 10.10.010 — 10.10.220, may be incorporated by filing articles of incorporation in the office of the commissioner as provided in AS 10.10.010 — 10.10.220. (§ 1 ch 94 SLA 1967; am § 63 ch 218 SLA 1976)

Effect of amendments. — The 1976 amendment deleted "of commerce" following "commissioner" near the end of the section.

Sec. 10.10.020. Assistance of commissioner. The commissioner shall assist the incorporators in forming the corporation and shall meet with and advise the corporation's board of directors. (§ 1 ch 94 SLA 1967; am § 64 ch 218 SLA 1976)

Effect of amendments. — The 1976 amendment deleted "of economic development" following "commissioner."

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 801
Title An Act relating to financial statements of corporations
Requested by Ferguson by request Date 2/16/82

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Division of Banking, Securities, Small Loans & Corporati
BRU, Program, Or Subprogram(s) Affected Public Protection
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		-0-				
200 TRAVEL		-0-				
300 CONTRACTUAL		-0-				
400 COMMODITIES		-0-				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		0				
700 GRANTS,CLAIMS,ETC.		-0-				
TOTAL		-0-				

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME		-0-				
PART TIME		-0-				
TEMPORARY		-0-				

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

Legislation, if passed, would add a new paragraph to the definition section of the Alaska Business Corporation Act defining "financial statements of the corporation."

IV. DATE February 22, 1982 PREPARED BY Willis F. Kirkpatrick
AGENCY Division of Banking, Securities, Sm. Lns. & Corp
PHONE [illegible]

Original: Legislative Finance
Budget and Management
[illegible]

SB
807

STATE OF ALASKA
JAY S. HAMMOND, GOVERNOR
DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
OFFICE OF THE COMMISSIONER
POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

February 19, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce
Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on SB 807, dealing with registration of broker-dealers, investment advisors, agents and securities.

Section 1 of the bill amends the registration procedure so that the administrator need not require broker-dealers, agents and investment advisors to post surety bonds if they have a sufficient amount of insurance to cover investors. This change allows, rather than requires, the administrator to set out minimum capital requirements for broker-dealers and investment advisors. The amendment makes this Alaska Securities Act section consistent with the Uniform Securities Act.

Section 2 eliminates unnecessary statutory requirements for business without lessening the protection provided to the public by the Alaska Securities Act. Within the past few years, clients of broker-dealers who operate through national exchanges (New York Stock exchange, etc.) have had a substantial amount of insurance provided by the Security Investors Protection Corporation (SIPC). The SIPC insurance operates in a manner similar to insured bank savings accounts. That is, if the bank or broker-dealer for some reason goes out of business without sufficient insurance to cover depositors (investors), SIPC will reimburse the investors.

We have some registered broker-dealers who are not insured by SIPC and it is proposed that, by regulation, those broker-dealers would continue to maintain a bond while those insured by SIPC will not.

Section 3 simply reduces the amount of paper sent to the Division of Banking. We have found one copy of the prospectus filed under the Securities Act of 1933 is sufficient for our review.

Under current statutes, if a registrant sells more securities in Alaska than has been registered, the entire offering could be subject to recission by an unhappy investor. Registrants should have some protection from this; at the same time, registrants should carefully assess and initially register the amount of securities they feel will be sold in the State. Section 4 of the proposed statute provides protection for the registrant while encouraging him not to underestimate the amount expected to be sold in Alaska.

An example of how this works is:

> The registrant provides a registration fee of $75.00 to register $75,000 in securities for sale in the State of Alaska. He then sells $100,000. In this instance, he could posteffectively register the securities by paying the amount he should have paid to register $100,000 in securities (an additional $25.00) plus a triple penalty ($75.00).

This proposed statute is taken from the Oregon Statute, ORS 59.065(5) with the minimum penalty raised from $25.00 to $50.00.

We encourage your support and passage of this legislation.

Sincerely,

E.W. Eboch

Edward W. Eboch
Deputy Commissioner

EWE/wfs 5/5

Senate Labor & Commerce

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 807 -- An Act relating to the registration of broker-
Title dealers, agents and investment advisors; and relating to registration of
Requested by Rodey Date 2/18/82 securities.

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Consumer Protection
BRU, Program, Or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		Ø				
200 TRAVEL		Ø				
300 CONTRACTUAL		Ø				
400 COMMODITIES		Ø				
500 EQUIPMENT		Ø				
600 LAND & STRUCTURES		Ø				
700 GRANTS,CLAIMS,ETC.		Ø				
TOTAL		Ø				

FUNDING (Thousands of Dollars)

GENERAL FUND		Ø				
FEDERAL FUNDS		Ø				
OTHER (Specify Source)		Ø				

POSITIONS

FULL TIME		Ø				
PART TIME		Ø				
TEMPORARY		Ø				

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

No fiscal Impact

Willis F. Kirkpatrick

IV. DATE February 18, 1982 PREPARED BY Willis F. Kirkpatrick, Director
AGENCY Division of Banking, Sec., Small Loans, & Comps.
PHONE 465-2521

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor

Article 2. Registration of Broker-Dealers, Agents, and Investment Advisers.

Section		Section	
30.	Registration requirements	60.	Denial, revocation, suspension, cancellation, and withdrawal of registration
40.	Registration procedure		
50.	Post-registration provisions		

Sec. 45.55.030. Registration requirements. (a) It is unlawful for a person to transact business in this state as a broker-dealer or agent unless he is registered under this chapter.

(b) It is unlawful for a broker-dealer or issuer to employ an agent unless the agent is registered. The registration of an agent is not effective during a period when he is not associated with a particular broker-dealer registered under this chapter or a particular issuer. When an agent begins or terminates a connection with a broker-dealer or issuer, or begins or terminates those activities which make him an agent, the agent as well as the broker-dealer or issuer shall promptly notify the administrator.

(c) It is unlawful for any person to transact business in this state as an investment adviser unless (1) he is registered as an investment adviser under this chapter; (2) he is registered as a broker-dealer without the imposition of a condition under AS 45.55.060(d)(5); or (3) his only clients in this state are investment companies as defined in the Investment Company Act of 1940 or insurance companies.

(d) Every registration expires one year from its effective date unless renewed. The administrator may by rule or order prepare an initial schedule for registration renewals so that subsequent renewals of registrations effective on May 9, 1959, may be staggered by calendar months. For this purpose the administrator may by rule reduce the registration fee proportionately. (§ 201 ch 156 SLA 1959)

Sec. 45.55.040. Registration procedure. (a) A broker-dealer, agent, or investment adviser may obtain an initial or renewal registration by filing with the administrator an application together with a consent to service of process pursuant to AS 45.55.260(g). The application shall be accompanied by the fingerprints and a photograph of the applicant and shall contain whatever information the administrator by rule requires concerning such matters as

(1) the applicant's form and place of organization;

(2) the applicant's proposed method of doing business;

(3) the qualifications and business history of the applicant; in the case of a broker-dealer or investment adviser, the qualifications and business history of a partner, officer, or director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser; and, in the case of an investment adviser, the qualifications and business history of an employee;

(4) an injunction or administrative order or conviction of a misdemeanor involving a security or any aspect of the securities business and any conviction of a felony; and

(5) the applicant's financial condition and history.

(b) The administrator may by regulation or order require an applicant for initial registration to publish an announcement of the application in one or more specified newspapers published in this state. If no denial order is in effect and no proceeding is pending under AS 45.55.060, registration becomes effective at noon on the 30th day after an application is filed, except that registration becomes effective upon filing of the application by any of the persons subject to this chapter who were doing business in this state on May 9, 1959. The administrator may by regulation or order specify an earlier effective date, and he may by order defer the effective date until noon of the 30th day after the filing of an amendment.

(c) Every broker-dealer applicant for initial registration shall pay a registration fee of $125. Every agent applicant and investment adviser applicant for initial registration shall pay a registration fee of $50. Every broker-dealer applicant for annual renewal of registration shall pay an annual renewal fee of $75. Every agent applicant and investment adviser applicant for annual renewal of registration shall pay an annual renewal fee of $30.

(d) A registered broker-dealer or investment adviser may file an application for registration of a successor, whether or not the successor is then in existence, for the unexpired portion of the year. A broker-dealer may file a request to transfer from a previous broker-dealer an agent's unexpired portion of the registration if the provisions of AS 45.55.030(b) have been met. There is a filing fee of $10 for filing applications under this subsection.

(e) The administrator shall by regulation require of registered broker-dealers and investment advisers a minimum capital and a bond guaranteed by a corporate surety qualified to do business in this state.

(f) The administrator shall by regulation require registered broker-dealers, agents, and investment advisers to post surety bonds in amounts up to $10,000, and shall by regulation determine their conditions. An appropriate deposit of cash or securities shall be accepted in place of a bond so required. Every bond shall provide for suit on it by any person who has a cause of action under AS 45.55.220 and, if the administrator by rule or order requires, by any person who has a cause of action not arising under this chapter. Every bond shall provide that no suit may be maintained to enforce a liability on the bond unless brought within three years after the sale or other act upon which it is based. (§ 202 ch 198 SLA 1959; am § 1 ch 55 SLA 1972; am §§ 2 — 6 ch 86 SLA 1972; am § 6 ch 132 SLA 1977)

of the issuer as of a date within four months before the filing of the registration statement, and a summary of earnings for each of the two fiscal years preceding the date of the balance sheet and for any period between the close of the last fiscal year and the date of the balance sheet, or for the period of the issuer's and predecessor's existence if less than two years.

(c) If no stop order is in effect and no proceeding is pending under AS 45.55.120, a registration statement under this section automatically becomes effective at three o'clock Pacific Standard Time in the afternoon of the second full business day after the filing of the registration statement or the last amendment, or at an earlier time as the administrator determines. (§ 402 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961)

Sec. 45.55.090. Registration by coordination. (a) A security for which a registration statement has been filed under the Securities Act of 1933 or any security for which filing has been made under Regulations A, E, and F pursuant to subsection (b) of § 3 of the Securities Act of 1933 in connection with the same offering may be registered by coordination.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in AS 45.55.110(c) and the consent to service of process required by AS 45.55.260(g):

(1) three copies of the latest form of prospectus filed under the Securities Act of 1933;

(2) if the administrator requires, copies of the articles of incorporation and bylaws (or their substantial equivalent) currently in effect, a copy of an agreement with or among underwriters, a copy of an indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;

(3) if the administrator requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and

(4) an undertaking to forward all future amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, promptly and in any event not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission, whichever first occurs.

(c) A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (1) no stop order is in effect and no proceeding is pending under AS 45.55.120; (2) the registration statement has been on file with the administrator for at least 10 days; and (3) a statement of the maximum and minimum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or a shorter

period which the administrator permits and the offering is made within those limitations.

(d) The registrant shall promptly notify the administrator by telephone or telegram of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file a post-effective amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices, and other matters dependent upon the offering price. Upon failure to receive the required notification and post-effective amendment with respect to the price amendment, the administrator may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with (c) and (d) of this section if he promptly notifies the registrant by telephone or telegram (and promptly confirms by letter or telegram when he notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of (c) and (d) of this section as to notice and post-effective amendment, the stop order is void as of the time of its entry. The administrator may by rule or otherwise waive either or both of the conditions specified in (c)(2) and (3) of this section. If the federal registration statement becomes effective before all the conditions in (c) and (d) of this section are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the administrator of the date when the federal registration statement is expected to become effective, the administrator shall promptly advise the registrant by telephone or telegram at the registrant's expense, whether all the conditions are satisfied and whether he then contemplates the institution of a proceeding under AS 45.55.120; but this advice by the administrator does not preclude the institution of the proceeding at any time. (§ 403 ch 198 SLA 1959, as added by § 19 ch 105 SLA 1961; am § 2 ch 55 SLA 1972; am § 7 ch 86 SLA 1972)

Sec. 45.55.100. Registration by qualification. (a) A security may be registered by qualification.

(b) A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information specified in AS 45.55.110(c) and the consent to service of process required by AS 45.55.260(g):

(1) with respect to the issuer and any significant subsidiary: its name, address, and form of organization; the state or foreign jurisdiction and date of its organization; the general character and location of its business; a description of its physical properties and equipment; and a statement of the general competitive conditions in the industry or business in which it is or will be engaged;

Article 3. Registration of Securities.

Sec. 45.55.070. Registration requirement.

NOTES TO DECISIONS

Applied in Hentzner v. State, Sup. Ct. Op. No. 2103 (File No. 3649), 613 P.2d 821 (1980).

Article 4. General Provisions.

Section
200. Orders and injunctions

Sec. 45.55.130. Definitions.

NOTES TO DECISIONS

Investmen contract. — Contracts in February, to sell no more than 2,000 ounces of gold at considerably below the market price of $90 per ounce, delivery to be within six to eight months, with the money to be used to finance mining to begin in the spring, fell squarely within the definition of an investment contract and were therefore securities. Hentzner v. State, Sup. Ct. Op. No. 2103 (File No. 3649), 613 P.2d 871 (1980).

Sec. 45.55.200. Orders and injunctions. (a) Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of AS 45.55.010 — 45.55.270 or rule or order under AS 45.55.010 — 45.55.270, the administrator may

(1) if it is considered in the public interest or for the protection of investors, issue an order (A) directing the person to cease and desist from continuing the act or practice, (B) directing the person, for a period not to exceed three years, to file the annual reports, proxies, consents or authorizations, proxy statements, or other materials relating to proxy solicitations required under AS 45.55.139 with the administrator for examination and review 10 working days before a distribution to shareholders, and (C) voiding any proxies obtained by a person required to file under AS 45.55.139, including their future exercise or actions resulting from their past exercise, if the proxies were solicited by means of an untrue or misleading statement prohibited under AS 45.55.160; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with AS 45.55.010 — 45.55.270 or rule or order under AS 45.55.010 — 45.55.270, and upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond.

(b) Before issuing an order under (a)(1) of this section the administrator shall give reasonable notice of and an opportunity for a hearing. However, the administrator may issue a temporary order pending the hearing which order shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice. (§ 308 ch 198 SLA 1959; am § 1 ch 126 SLA 1968; am § 1 ch 65 SLA 1981)

Effect of amendments. — The 1981 amendment designated the existing section as subsection (a) and added subsection (b). In subsection (a), the amendment substituted "the administrator" for "he" in the introductory language, in paragraph (1), substituted "it is considered" for "he considers it," added "(A)" preceding "directing the person to cease" and substituted the language beginning "(B) directing the person" and ending with "prohibited under AS 45.55.160" for "provided that reasonable notice of and an opportunity for a hearing shall first be given, except that the administrator may issue a temporary order pending the hearing which shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within fifteen days after the receipt of notice."

Sec. 45.55.210. Criminal penalties.

NOTES TO DECISIONS

"Willfully" as it is used in subsection (a) of this section requires an awareness of wrongdoing. Hentzner v. State, Sup. Ct. Op. No. 2103 (File No. 3649), 613 P.2d 821 (1980).

Chapter 87. Bulk Fuel.

Sec. 45.87.500. Definitions.

Editor's notes. — This section was enacted as AS 45.87.040 but was renumbered by the revisor of statutes pursuant to AS 01.05.031 (b).

Chapter 88. Alternative Technology and Energy Revolving Loan Fund.

Editor's notes. — The above chapter heading was changed to reflect the name of the fund as established by AS 45.88.010.

Sec. 45.88.500. Definition.

Editor's notes. — This section was enacted as AS 45.88.040 but was renumbered by the revisor of statutes pursuant to AS 01.05.031(b).

SB
819

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

SB 819 Summary:

Relates to contracts for architectural, engineering, and land surveying services. Provides the state shall award contracts for such services only on the basis of demonstrated competence and qualifications for the type of professional services required. Provides an attempt shall be made to negotiate a contract with the person or firm selected at a price that is fair and reasonable. Proposals are to be publicly ranked, and the state shall attempt to negotiate a fair and reasonable price with the best qualified contractor, and shall negotiate with other contractors, in order of ranking, if negotiations with the first ranking contractors are not successful. Provides the state may reject all or part of a proposal. Does not apply to contracts awarded in an emergency if the person awarding the contract certifies in writing that the emergency exists. Takes effect immediately.

(d) Votes required to be conducted under (c) of this section may be conducted by teleconference. (§ 1 ch 170 SLA 1980)

Cross references. — For the 1980 special appropriation to the reserve for emergency operating expenses account, see Chapter 171, SLA 1980, in the Temporary and Special Acts binder.

Article 4. Uniform Purchasing.

Section
230. Competitive bids

Sec. 37.05.230. Competitive bids. In the manner provided in AS 37.05.010 — 37.05.330 and rules and regulations established under it

(1) a contract for construction and repairs, or a purchase of and contract for supplies, materials, equipment, and contractual services must be based on competitive bids; an award shall be made to the lowest responsible bidder after advertising for bids, except that (A) Repealed by § 2 ch 92 SLA 1967; (B) a bid shall be awarded to an Alaska bidder if his bid is not more than five per cent higher than the lowest nonresident bidder's; and (C) competitive bids need not be required (i) for contractual services where no competition exists; (ii) for sales involving fair trade items; (iii) when, in the judgment of the purchasing agent, food, clothing, or medical supplies, or materials for use in laboratory and experimental studies may be purchased otherwise to the best advantage of the state; (iv) where rates are fixed by law or ordinance; (v) for items traded in on like items; or (vi) for professional services;

(2) if the amount of the contractual services, purchase, or sale is estimated to exceed $2,500 sealed bids shall be solicited, when practicable, by publication in a newspaper calculated to reach prospective bidders and by posting notices in public places within the area where the work is to be performed or material furnished and in addition the department may also designate a trade journal for publication; the department shall also solicit bids by sending notices by mail to all active prospective bidders known to it and all bids shall be sealed when received, and shall be opened in public at the hour stated in the notice; the department may negotiate directly if it finds that it is in the best interests of the state;

(3) a contractual service, purchase or sale where the known requirements are estimated to be less than $2,500 may be made either upon competitive bids in accordance with (2) of this section or in the open market, in the discretion of the department; but, so far as practicable, shall be based on at least three competitive bids and recorded as provided in AS 37.05.240; small purchases of less than $300 in the discretion of the department may be made on the open market, and may be by cash payment from petty cash accounts set aside for that purpose;

the department shall determine the amount of the petty cash accounts needed by each state agency, and inspect the petty cash accounts at least once each year to determine that the total plus amounts of receipts for unreplenished disbursements is equal to the fixed sum of cash set aside; shortages in petty cash accounts are a personal liability of the responsible head of the agency to whom the account is set aside; the department shall make all necessary rules and regulations governing use and replenishment of petty cash funds;

(4) the provisions of this section relative to competitive bids do not apply to contracts for the operation of transportation systems for students to and from the schools within the state, as are authorized under AS 14.09.010; and these contracts may be awarded by bid or negotiation and, at the discretion of the Board of Education, may be awarded for periods of three years or less;

(5) an "Alaska bidder," for the purpose of bid awards under (1) (B) of this section, is a person who

(A) holds a current Alaska business license,

(B) submits a bid for goods or services under the name as appearing on his current Alaska business license,

(C) has maintained a place of business within the state for a period of six months immediately preceding the date of his bid.

(6) the competitive bid requirements of this section do not apply to air taxi services used by state employees when no formal contract is executed; the department affected shall pay the air taxi operator the tariff rates as published by him with the Air Transportation Commission for the type of aircraft required; the tariffs need not be uniform throughout the state and may reflect the diverse conditions of various areas of the state; the air taxi service used in each case shall be selected by the state employee who is to fly in the aircraft, or if more than one state employee is flying in the aircraft by the employee in charge; in all cases the air taxi operator shall have complied with AS 02.05.010 — 02.05.260 and other prequalifying regulations established by the department.

(7) the provisions of this section relative to an "Alaska bidder" do not apply to contracts estimated to exceed $5,000, of either the Department of Transportation and Public Facilities, which are authorized under AS 35.15.010 — 35.15.120, or the Department of Highways, which are authorized under AS 19.10.010 — 19.10.280.

(8) the provisions of this section relative to competitive bids do not apply to the purchase of products or services manufactured or provided by a sheltered workshop. (§ 3 art IV ch 82 SLA 1955; am §§ 8 — 10, 23 ch 186 SLA 1957; am § 1 ch 77 SLA 1959; am § 1 ch 158 SLA 1962; am § 1 ch 82 SLA 1964; am §§ 1, 2 ch 92 SLA 1967; am § 1 ch 61 SLA 1970; am § 1 ch 92 SLA 1975; am §§ 1, 2 ch 194 SLA 1975)

exclusive lease or franchise without the necessity of calling for bids. 1962 Op. Att'y Gen., No. 4.

As well as for extension thereof. — If an exclusive lease or franchise is in effect the state cannot extend the term thereof without calling for bids. 1962 Op. Att'y Gen., No. 4.

But not for nonexclusive lease or franchise. — The commissioner of public works has the authority to grant a nonexclusive lease or franchise without calling for competitive bids. 1962 Op. Att'y Gen., No. 4.

Sec. 37.05.231. Estimation of flying hours required. The state, when soliciting bids for air charter service, shall make available in writing to prospective bidders upon request an estimate of the flying hours required by each individual agency of the state which will take advantage of these services. (§ 1 ch 17 SLA 1967)

Sec. 37.05.240. Award of contracts and purchases. A contract or purchase made by or under the supervision of the department for which competitive bids are required shall be awarded to the lowest responsible bidder, taking into consideration conformity with the specifications, terms of delivery, and other conditions imposed in the call for bids. Bids may be rejected, and a bid shall be rejected if it contains a material alteration or erasure which is not initialed by the signer of the bid. The department may reject the bid of a bidder who is in arrears on taxes due the state or who failed to perform on a previous contract with the state. Where competitive bids are required and where all bids are rejected, new bids shall be called for as in the first instance. Before the awarding of a contract for a building or the making of repairs upon a building, the department shall see that the bids conform with plans and specifications approved by the Department of Transportation and Public Facilities. All bids with the names of the bidders and the amounts of the bids, together with all documents pertaining to the award of a contract, shall be made a part of a file or record and retained by the department for three years, unless reproduced by microfilming and these files or records are open to public inspection at all reasonable times. An aggrieved bidder may within five days after an award of contract appeal to the department for hearing, with notice to interested parties, for redetermination and final award in accordance with law. (§ 4 art IV ch 82 SLA 1955; am § 1 ch 64 SLA 1976)

Effect of amendment. — The 1976 amendment added "which is not initialed by the signer of the bid" to the end of the second sentence.

Editor's note. — Pursuant to Executive Order No. 39 (1977), the reference to the Department of Transportation and Public Facilities has been substituted for a reference to the Department of Public Works near the middle of the section.

Sec. 37.05.250. Delegation of duties. The department may delegate the duties imposed by this chapter upon an employee of the state normally stationed in a town or location distant from the state capital. Agents so designated shall perform the duties as the department

(1) the contractor is, and for two years immediately preceding the award of the contract has been, a licensed contractor having his or its principal office in the state;

(2) the contractor certifies that he has not defaulted on a contract awarded to him during the period of three years preceding the award of a contract for which a bid is submitted;

(3) the contractor submits a financial statement, prepared within a period of nine months preceding the submission of a bid for the contract and certified by a public accountant or a certified public accountant licensed under AS 08.04.010 — 08.04.690, demonstrating that the contractor has a net worth of not less than 20 per cent of the amount of the contract for which a bid is submitted; and

(4) the total amount of all contracts which the contractor anticipates performing during the term of performance of the contract for which a bid is submitted does not exceed the net worth of the contractor reported in the certified financial statement prepared and submitted under (3) of this subsection by more than seven times. (§ 1 ch 81 SLA 1978)

Cross references. — As to limitation of home rule power regarding municipal exemption on contractor bond requirements, see AS 29.13.100(38). As to requirement that a municipality use ordinances to exempt contractors from compliance with general requirements relating to certain bonds, see AS 29.48.130(a)(12).

Chapter 95. General Provisions.

Section
10. Definitions

Sec. 36.95.010. Definitions. In AS 36.05.010 — 36.25.025 unless the context requires otherwise

(1) "contractor" means the contractor including subcontractors performing work necessary to facilitate public construction;

(3) "public construction" or "public works" means the on-site field surveying, erection, rehabilitation, alteration, extension or repair, including painting or redecorating of buildings, of highways or other improvements to real property under contract for the state, a political subdivision of the state, or a regional school board with respect to an educational facility under AS 14.08.161;

(am § 3 ch 89 SLA 1976; am § 16 ch 147 SLA 1978)

Revisor's notes. — AS 36.95.010(3) has been corrected by the reinsertion of the word "of" before and after the word "buildings" to return to the original wording of sec. 16, ch. 142, SLA 1972.

Effect of amendments. — The 1976 amendment substituted "subcontractors performing work necessary to facilitate public construction" for "the subcontractor" in paragraph (1) and inserted "field surveying" in paragraph (3).

The 1978 amendment, in paragraph (3) deleted "or" following "for the state" and added "or a regional school board with respect to an educational facility under AS 14.08.161" to the end.


SB
831

Introduced: 3/4/82
Referred: Labor & Commerce

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE

SENATE BILL NO. 831

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to insurance policies and contracts."

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

* Section 1. AS 21.09.260 is amended to read:

Sec. 21.09.260. VIOLATIONS - PENALTIES. An insurer violating the provisions of AS 21.09.250 [AS 21.09.220 - 21.09.250] is guilty of a misdemeanor and upon conviction is punishable by a fine of not more than $500 for each violation. In the event of conviction the insurance director may suspend or revoke the license of the insurer, but violation shall not invalidate the insurance contract.

* Sec. 2. AS 21.09.220, 21.09.230, and 21.09.240 are repealed.

See Statutes beneath bill;

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

LEGISLATIVE POSITION PAPER
SB 831
March 15, 1982

The Department of Commerce and Economic Development favors SB 831 and urges passage of the bill.

SB 831 repeals the Alaska Countersignature Law which requires that an insurance policy issued for delivery in Alaska or covering a subject in Alaska be signed by a licensed resident Alaska agent. It further sets forth a level of remuneration to be received by the countersigning agent.

The law was originally intended as a protective device for Alaska producers, to give them an advantage over their non-resident counterparts. This type of law exists in about 40 states and agents associations in those states are asking for repeal because it has not worked as expected. Where it is applied as structured, it tends to impede the flow of business and implant an additional level of bureaucracy as to those policies affected. Some non-resident producers circumvent the law through the use of contracts with a resident, power of attorney, and facsimile signature. The law provides no protection for the insuring public.

A copy of the sections of law to be repealed is attached.

E.W. Eboch 3/15/82

Edward W. Eboch
Deputy Commissioner

08-H2LH

SECTIONS TO BE REPEALED

Sec. 21.09.220. Counter signature by resident agent—Application of title. No company, association, reciprocal exchange, person or persons authorized to transact insurance or offer indemnity contracts in this state excepting reciprocal mutuals organized under the laws of this state and life insurance companies or life insurance contracts and health and accident contracts and annuity contracts written therein, may make, write, place or cause to be made, written or placed, a policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in the state, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through their licensed resident insurance agents, who shall countersign all policies, riders and endorsements or indemnity contracts so issued and collect the premiums, or see to their collection in due course, and who shall keep a record of the same. The record shall contain the usual and customary information concerning the risk undertaken, including the full premium paid or to be paid, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. No agent shall pay or forward a premium or application for insurance or in any manner secure, help or aid in the placing of insurance, or effect a contract of insurance or indemnity upon property, liability or undertakings located in this state with an insurer which is not authorized to transact its business in this state; except that if two or more insurers issue a single policy of insurance, the policy may be countersigned on behalf of all insurers appearing on it by a licensed agent, resident of the state, or any one of the insurers. The practice of signing policies in blank is likewise prohibited. (§ 1 ch 120 SLA 1966)

Sec. 21.09.230. Exception. Nothing contained in § 220 of this chapter shall be construed as preventing the free and unlimited right to negotiate wholly outside this state contracts of insurance by licensed nonresident agents and brokers, provided the policies, dailies, endorsements or evidence of the contracts covering properties or insurable interests in this state are countersigned by the resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent of the premium paid; provided, however, that the countersigning commission may not

exceed one-half of the total commission and provided further that for countersigning these insurance policies the resident agent shall not be paid more than $50 nor less than $1 for countersigning a policy or bond; and provided further, that if the licensed nonresident agent or broker or the insurer assuming the risk desires the resident agent to render additional services during the life of a policy the compensation to be paid to the countersigning agent shall be a matter of contract between the parties in interest. Sections 220—250 of this chapter do not apply to the following contracts:

(1) policies covering property received for shipment or delivery or in transit while in possession or custody of a common carrier, or the rolling stock, vessels, aircraft, or other property of a common carrier used and employed by it in interstate or foreign commerce, or insurance of aircraft owned or operated by manufacturers of aircraft;

(2) policies issued by insurers not using agents in the general solicitation of business;

(3) contracts of reinsurance or retrocessions made by and for admitted companies;

(4) contracts of life and disability insurance and annuity contracts;

(5) contracts of title insurance;

(6) bid bonds issued in connection with a public or private contract;

(7) wet marine and transportation insurances. (§ 1 ch 120 SLA 1966)

Sec. 21.09.240. Affidavit attached to annual statement. At the time the annual statement of every such company is filed with the director there shall be attached to it an affidavit of the president, manager or chief executive officer in the United States stating that §§ 220—250 of this chapter have not been violated. (§ 1 ch 120 SLA 1966)

(c) A domestic company is exempt from taxation under this section for a period of five years from the date of its organization.

(d) An authorized insurer shall, with respect to all wet marine and transportation contracts written in this state during the preceding calendar year, before April 1 of each year, pay to the director a tax of three-quarters of one per cent on its gross underwriting profit. The gross underwriting profit is computed by deducting from the net premiums (i.e., gross premiums less all return premiums and premiums for reinsurance), on wet marine and transportation insurance contracts, the net losses paid (i.e., gross losses paid, less salvage and recoveries on reinsurance ceded) during the calendar year under the contracts. In the case of an insurer issuing participating contracts, the gross underwriting profit shall not include, for computation of the tax prescribed by this section, the amounts refunded or paid as participation dividends by the insurers to the holders of the contracts.

(e) Payment to the director by an insurer of the tax upon its premiums required by this section shall be in lieu of all other taxes imposed by the state upon premiums, franchise, privilege or other taxes measured by income of the insurer commencing with the taxable year beginning January 1, 1967.

(f) The state hereby pre-empts the field of imposing excise, privilege, franchise, income, license, permit, registration, and similar taxes, licenses, and fees upon insurers and their general agents, agents and representatives as such; and on the intangible property of insurers or agents; and all political subdivisions of agencies in the state, including home rule boroughs or cities, are prohibited from imposing or levying upon insurers, or upon their general agents, agents and representatives as such, any tax, license, or fee. Provided that this subsection shall not be construed as prohibiting the imposition by political subdivisions of taxes upon real and tangible personal property of insurers and their general agents, agents and representatives.

(g) The director may suspend or revoke the certificate of authority of an insurer which fails to pay its taxes as required under this section.

(h) The provisions of this section do not apply to title insurance companies. A premium tax on title insurance companies shall be levied in accordance with the provisions of AS 21.66.110. (§ 1 ch 120 SLA 1966)

REPEALED

→ **Sec. 21.09.220. Counter signature by resident agent—Application of title.** No company, association, reciprocal exchange, person or persons authorized to transact insurance or offer indemnity contracts in this state excepting reciprocal mutuals organized under the laws of this state and life insurance companies or life in-

surance contracts and health and accident contracts and annuity contracts written therein, may make, write, place or cause to be made, written or placed, a policy or contract of insurance or indemnity of any kind or character, or a general or floating policy covering risks on property located in the state, liability created by or accruing under the laws of this state, or undertakings to be performed in this state, except through their licensed resident insurance agents, who shall countersign all policies, riders and endorsements or indemnity contracts so issued and collect the premiums, or see to their collection in due course, and who shall keep a record of the same. The record shall contain the usual and customary information concerning the risk undertaken, including the full premium paid or to be paid, to the end that the state may receive the taxes required by law to be paid on premiums collected for insurance on property or undertakings located in this state. No agent shall pay or forward a premium or application for insurance or in any manner secure, help or aid in the placing of insurance, or effect a contract of insurance or indemnity upon property, liability or undertakings located in this state with an insurer which is not authorized to transact its business in this state; except that if two or more insurers issue a single policy of insurance, the policy may be countersigned on behalf of all insurers appearing on it by a licensed agent, resident of the state, or any one of the insurers. The practice of signing policies in blank is likewise prohibited. (§ 1 ch 120 SLA 1966)

REPEALED →

Sec. 21.09.230. Exception. Nothing contained in § 220 of this chapter shall be construed as preventing the free and unlimited right to negotiate wholly outside this state contracts of insurance by licensed nonresident agents and brokers, provided the policies, dailies, endorsements or evidence of the contracts covering properties or insurable interests in this state are countersigned by the resident agent of this state, in which event the countersigning agent shall receive a commission of not less than five per cent of the premium paid; provided, however, that the countersigning commission may not exceed one-half of the total commission and provided further that for countersigning these insurance policies the resident agent shall not be paid more than $50 nor less than $1 for countersigning a policy or bond; and provided further, that if the licensed nonresident agent or broker or the insurer assuming the risk desires the resident agent to render additional services during the life of a policy the compensation to be paid to the countersigning agent shall be a matter of contract between the parties in interest. Sections 220—250 of this chapter do not apply to the following contracts:

(1) policies covering property received for shipment or delivery, or in transit while in possession or custody of a common carrier,

or the rolling stock, vessels, aircraft, or other property of a common carrier used and employed by it in interstate or foreign commerce, or insurance of aircraft owned or operated by manufacturers of aircraft;

(2) policies issued by insurers not using agents in the general solicitation of business;

(3) contracts of reinsurance or retrocessions made by and for admitted companies;

(4) contracts of life and disability insurance and annuity contracts;

(5) contracts of title insurance;

(6) bid bonds issued in connection with a public or private contract;

(7) wet marine and transportation insurances. (§ 1 ch 120 SLA 1966)

REPEALED →

Sec. 21.09.240. Affidavit attached to annual statement. At the time the annual statement of every such company is filed with the director there shall be attached to it an affidavit of the president, manager or chief executive officer in the United States stating that §§ 220—250 of this chapter have not been violated. (§ 1 ch 120 SLA 1966)

Sec. 21.09.250. Unlawful acts defined. It is unlawful for an insurer doing business in this state to make, write, place or cause to be made, written or placed in this state a policy, duplicate policy or contract of insurance of any kind or character, or general or floating policy upon persons or property resident, situated or located in this state, from or through a broker, agent, surplus line broker or person who has not secured a license in this state. No insurer may pay a commission or any form of remuneration to a person, firm or organization for the writing or placing of insurance coverage in this state unless that person, firm or organization holds a license issued by the director or his successor. (§ 1 ch 120 SLA 1966)

Sec. 21.09.260. Violations—Penalties. An insurer violating the provisions of §§ 220—250 of this chapter is guilty of a misdemeanor and upon conviction is punishable by a fine not more than $500 for each violation. In the event of conviction the insurance director may suspend or revoke the license of the insurer, but violation shall not invalidate the insurance contract. (§ 1 ch 120 SLA 1966)

Sec. 21.09.270. Retaliation. (a) If, under the laws of another state or foreign country, taxes, licenses and other fees, in the aggregate, and fines, penalties, deposit requirements or other material obligations, prohibitions or restrictions are or would be im-

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 831
Title An act relating to Insurance Policies and Contracts
Requested by Labor and Commoerce Committee Date 3/4/82

II. FISCAL DETAIL
Agency Affected Division of Insurance
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Division Insurance
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE March 15,1982 PREPARED BY Kenneth C. Moore, Div. of Insurance
AGENCY Commerce & Economic Development
PHONE 465-2515

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SB

841

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

SB 841:

PROBLEM: Fixed interest rate ceilings (8%) on life insurance policy loans;

1) Rate of interest is lower than the cost of the loan;
2) Reduces funds available for investment (restricts investment capital)
3) Reduces funds available for distribution (dividends)
4) Creates a subsidy for policy holders using the policy loan feature at the expense of policy holders who do not have policy loans;
5) Impacts the net cost of insurance
6) Has an impact on insurer liquidity, and therefore effects the flexibility of their investment portfolio;

PROPOSED SOLUTIONS: Remove the fixed rate of interest cap on life insurance policy loans;

1) Provides the option of issuing a policy loan at a maximum rate of interest (8%), and/or offering an adjustable rate of interest tied in to the changes in the Moody Index (Corporate Bond Yield Index).
2) Rates can be adjusted by changes of ½ percentage point of the Moody Index;
3) Rate adjustments may be determined quarterly, semi annually, or at least annually, and the frequency with which the company intends to determine interest rate adjustments must be contained in the policy.
4) Insurance companies are required to decrease rates at the same interval chosen for their adjustments, and the interval must be contained in each policy.
5) Provisions in the bill prohibit unintended lapses of policy coverage because of interest rate changes.

Bill has the support of: National Association of Life Underwriters
Alaska State Association of Life Underwriters
American Council of Life Underwriters
Division of Insurance

Has been approved by the National Association of Insurance Commissioners, and has been enacted in 19 states thus far.

tion. If the company fails to meet the requirements contained in this subsection, the director may suspend the certificate of authority of the company until the requirements are met or may prohibit the further issuance of variable contracts.

(k) The director has sole authority to regulate the issuance and sale of variable contracts, to examine and license agents to sell variable contracts, and to issue whatever regulations he may consider appropriate to carry out the purposes and provisions of this section.

(*l*) Except for AS 21.45.030, 21.45.080, 21.45.110, 21.45.180, 21.45.230, 21.45.240, 21.45.290, 21.45.300, 21.48.110, and except as otherwise provided in this section, the provisions of this title apply to separate accounts and contracts relating to them. An individual variable life insurance contract delivered or issued for delivery in the state must contain grace reinstatement and nonforfeiture provisions appropriate to that contract. An individual variable annuity contract delivered or issued for delivery in the state must contain grace and reinstatement provisions appropriate for that contract. A group variable life insurance contract delivered or issued for delivery in the state must contain a grace provision appropriate for that contract. The reserve liability for variable contracts shall be established in accordance with actuarial procedures, acceptable to the director, that recognize the variable nature of the benefits provided and any mortality guarantees. (§ 1 ch 180 SLA 1968; am § 1 ch 69 SLA 1980)

Effect of amendments. — The 1980 amendment rewrote the section.

Chapter 45. Life Insurance and Annuities.

Section		Section	
80.	Policy loan	305.	Standard nonforfeiture law for individual deferred annuities
300.	Standard nonforfeiture law — Life insurance		

Sec. 21.45.080. Policy loan. (a) There shall be a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security of the policy, at a specified rate of interest not exceeding eight per cent a year, an amount equal to or, at the option of the party entitled to it, less than the loan value of the policy. The director may authorize rates of interest in excess of six per cent only on a finding that the holders of policies will benefit from the increased earnings of the insurer resulting from the higher rates, through the use of higher dividends or lower premiums, or both. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, except that the insurer may deduct, either from the loan value or from

the proceeds of the loan, an existing indebtedness not already deducted in determining the cash surrender value including interest then accrued but not due, the unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on an indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value of the policy, the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of a premium to the insurer, for six months after the date of the loan application. The policy, at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

(b) This section does not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions, or to industrial life insurance policies. (§ 1 ch 120 SLA 1966; am § 1 ch 103 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "eight" for "six" preceding "per cent" in the first sentence of subsection (a), added the second sentence in that subsection, and inserted a comma following "The policy" at the beginning of the last sentence of subsection (a).

Editor's notes. — Section 8, c. 103, SLA 1980, provides: "This Act shall not impair the terms and conditions of any policy of life insurance issued before the effective date of this Act."

Sec. 21.45.300. Standard nonforfeiture law — Life insurance. (a) This section shall be known as the standard nonforfeiture law.

(b) In the case of policies issued on or after the operative date of this section as defined in (n) of this section, no policy of life insurance, except as set out in (m) of this section, may be delivered or issued for delivery in this state unless it contains the following provisions, or corresponding provisions which in the opinion of the director are at least as favorable to the defaulting or surrendering policyholder:

(1) that in the event of default in a premium payment, after premiums have been paid for at least one full year, the insurer will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date of such value as may be hereinafter specified:

(2) that upon surrender of the policy within 60 days after the due date of a premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance, and five full years in the case of industrial insurance, the insurer will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified;

plus, if any, in the manner set out in the policy. (§ 1 ch 120 SLA 1966)

Sec. 21.45.080. Policy loan. (a) There shall be a provision that after three full years' premiums have been paid and after the policy has a cash surrender value and while no premium is in default beyond the grace period for payment, the insurer will advance, on proper assignment or pledge of the policy and on the sole security of the policy, at a specified rate of interest not exceeding six per cent a year, an amount equal to or, at the option of the party entitled to it, less than the loan value of the policy. The loan value of the policy shall be at least equal to the cash surrender value at the end of the then current policy year, except that the insurer may deduct, either from the loan value or from the proceeds of the loan, an existing indebtedness not already deducted in determining the cash surrender value including interest then accrued but not due, the unpaid balance of the premium for the current policy year, and interest on the loan to the end of the current policy year. The policy may also provide that if interest on an indebtedness is not paid when due it shall then be added to the existing indebtedness and shall bear interest at the same rate, and that if and when the total indebtedness on the policy, including interest due or accrued, equals or exceeds the amount of the loan value of the policy, the policy shall terminate and become void. The policy shall reserve to the insurer the right to defer the granting of a loan, other than for the payment of a premium to the insurer, for six months after the date of the loan application. The policy at the insurer's option, may provide for automatic premium loan, subject to an election of the party entitled to elect.

(b) This section does not apply to term policies or to term insurance benefits provided by rider or supplemental policy provisions, or to industrial life insurance policies. (§ 1 ch 120 SLA 1966)

Sec. 21.45.090. Table of values. There shall be a table showing in figures the loan value, if required under § 80 of this chapter, and the cash surrender values and nonforfeiture benefits in accordance with § 300(b)(5) of this chapter, either during the first 20 policy years or during the term of the policy, whichever is shorter. (§ 1 ch 120 SLA 1966)

Sec. 21.45.100. Table of installments. In case the policy provides that the proceeds may be payable in instalments which are determinable at issue of the policy, there shall be a table showing the amounts of the guaranteed installments. (§ 1 ch 120 SLA 1966)

Sec. 21.45.110. Reinstatement. Except as provided in § 230 of this chapter, there shall be a provision that unless (1) the policy

has been surrendered for its cash surrender value, (2) its cash surrender value has been exhausted, or (3) the paid-up term insurance, if any, has expired, the policy will be reinstated at any time within three years (or two years in the case of industrial life insurance policies) from the date of premium default upon written application, the production of evidence of insurability satisfactory to the insurer, the payment of all premiums in arrears and the payment or reinstatement of another indebtedness to the insurer upon the policy, with interest at a rate not exceeding six per cent a year compounded annually. (§ 1 ch 120 SLA 1966)

Sec. 21.45.120. Payment of premiums. There shall be a provision relative to the payment of premiums. (§ 1 ch 120 SLA 1966)

Sec. 21.45.130. Payment of claims. There shall be a provision that when a policy becomes a claim by the death of the insured, settlement shall be made upon receipt of due proof of death and, at the insurer's option, surrender of the policy and/or proof of the interest of the claimant. If an insurer specifies a particular period before the expiration of which settlement shall be made, the period may not exceed two months from the receipt of the proofs. (§ 1 ch 120 SLA 1966)

Sec. 21.45.140. Beneficiary, industrial policies. An industrial life insurance policy shall have the name of the beneficiary designated on it with a reservation of the right to designate or change the beneficiary after the issuance of the policy. The policy may also provide that no designation or change of beneficiary shall be binding on the insurer until endorsed on the policy by the insurer, and that the insurer may refuse to endorse the name of proposed beneficiary who does not appear to the insurer to have an insurable interest in the life of the insured. The policy may also provide that if the beneficiary designated in the policy does not make a claim under the policy or does not surrender the policy with due proof of death within the period stated in the policy, which may not be less than 30 days after the death of the insured, or if the beneficiary is the estate of the insured, or is a minor, or dies before the insured, or is not legally competent to give a valid release, the insurer may pay the proceeds to the executor or administrator of the insured, or to any relative of the insured by blood or legal adoption or connection by marriage, or to any person appearing to the insurer to be equitably entitled to the proceeds by reason of having been named beneficiary, or by reason of having incurred expense for the maintenance, medical attention or burial of the insured. The policy may also include a similar provision applicable to other payments due under the policy. (§ 1 ch 120 SLA 1966)

Sec. 21.45.150. Title. There shall be a title on the policy, briefly describing it. (§ 1 ch 120 SLA 1966)

cept provisions relative to benefits in the event of disability and provisions which grant insurance specifically against death by accident or accidental means. (§ 1 ch 120 SLA 1966)

Sec. 21.45.200. Entire contract. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract constitutes the entire contract between the parties or, if a copy of the application is endorsed upon or attached to the contract when issued, there shall be a provision that the contract and the application constitute the entire contract between the parties. (§ 1 ch 120 SLA 1966)

Sec. 21.45.210. Misstatement of age or sex—Annuities. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that if the age or sex of the person or persons upon whose life or lives the contract is made, or of any of them, has been misstated, the amount payable or benefits accruing under the contract shall be such as the stipulated payment or payments to the insurer would have purchased according to the correct age or sex and that if the insurer makes or has made an overpayment or overpayments on account of a misstatement, the amount of the overpayment, with interest at the rate to be specified in the contract but not exceeding six per cent a year, may be charged against the current or next succeeding payment or payments to be made by the insurer under the contract. (§ 1 ch 120 SLA 1966)

Sec. 21.45.220. Dividends—Annuities. If an annuity or pure endowment contract, other than a reversionary survivorship, or group annuity, is participating, there shall be a provision that the insurer shall annually ascertain and apportion any divisible surplus accruing on the contract. (§ 1 ch 120 SLA 1966)

Sec. 21.45.230. Reinstatement—Annuities. In an annuity or pure endowment contract, other than a reversionary, survivorship, or group annuity, there shall be a provision that the contract may be reinstated at any time within one year from the default in making stipulated payments to the insurer, unless the cash surrender value had been paid, if all overdue stipulated payments and any indebtedness to the insurer on the contract are paid or reinstated with interest at a rate to be specified in the contract, not exceeding six per cent a year payable annually. Where applicable the insurer may also include a requirement of evidence of insurability satisfactory to the insurer. (§ 1 ch 120 SLA 1966)

Sec. 21.45.240. Standard provisions — Reversionary annuities. (a) Except as stated herein, no contract for a reversionary annuity may be delivered or issued for delivery in this state unless it contains in substance each of the following provisions:

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 841
Title An act relating to insurance provisions on policy loans & reinstatement of
Requested by Labor and Commerce Committee Date 3/8/82
of policies.

II. FISCAL DETAIL
Agency Affected Division of Insurance
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Division of Insurance
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0					
200 TRAVEL	0					
300 CONTRACTUAL	0					
400 COMMODITIES	0					
500 EQUIPMENT	0					
600 LAND & STRUCTURES	0					
700 GRANTS,CLAIMS,ETC.	0					
TOTAL	0					

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0					
PART TIME	0					
TEMPORARY	0					

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

IV. DATE March 15,1982 PREPARED BY Kenneth C. Moore, Div. of Insurance
AGENCY Commerce & Economic Development
PHONE 465-2515

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

SB
869

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
PHONE: 465-2500

LEGISLATIVE POSITION PAPER
SB 869
April 2, 1982

The Department of Commerce and Economic Development takes a neutral position on SB 869.

This proposal requires that a surety insurer maintain a copy of all applications for surety insurance as well as a record of the reasons for denial on those applications refused. The surety would then be required to provide that information upon the written request of the applicant.

The proposal also has a sunset provision effective June 30, 1988.

We are not clear on whether the information acquired during the effectiveness of the proposal would have to be maintained following expiration of the act. The proposal would not help a great deal nor will it do much harm. Insurers are prepared to comply if required and if reasonably protected.

In December 1980, the National Association of Insurance Commissioners adopted the "NAIC Insurance Information and Privacy Protection Model Act" which we firmly believe is the preferred method to providing the protection sought by SB 869. A copy of that model bill is attached for your review. We have also prepared an Alaskanized version of the NAIC model which does differ slightly. We are in the process of preparing a section analysis on that bill. The proposal we are suggesting is much wider in scope than SB 869. There would be no fiscal impact on the Division of Insurance.

Kenneth C. Moore
Director of Insurance

Edward W. Eboch
Deputy Commissioner

08-H2LH

NAIC INSURANCE INFORMATION AND PRIVACY PROTECTION MODEL ACT

—Text of Model Act as Revised in December 1980—

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Preamble.

The purpose of this Act is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

Section 1. Scope.

(A) The obligations by this Act shall apply to those insurance institutions, agents or insurance-support organizations which, on or after the effective date of this Act:

(1) in the case of life, health and disability insurance:

(a) collect, receive or maintain information in connection with insurance transactions which pertains to natural persons who are residents of this State, or

(b) engage in insurance transactions with applicants, individuals or policyholders who are residents of this State, and

ii. the charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished,

Drafting Note: The use of the term "substandard" in paragraph 2(A)(1)(d)(i) is intended to apply to those insurance institutions whose rates and market orientation are directed at risks other than preferred or standard risks. To facilitate compliance with this Act, Commissioners shoud consider developing a list of insurance institutions operating in their state which specialize in substandard risks and make it known to insurance institutions and agents.

(e) in the case of a life, health or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding subsection (1) above, the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(a) the termination of an individual policy form on a class or statewide basis,

(b) a declination of insurance coverage solely because such coverage is not available on a class or statewide basis, or

(c) the rescission of a policy.

(B) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(C) "Agent" means _____. (Make reference here to every appropriate statutory category of producer, including brokers, authorized to do business in the State. This is necessary because in many states different types of producers or producers for certain types of insurance institutions are referred to by specific statutory terms in the insurance code.)

(D) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten

(E) "Commissioner" means _____. (Insert the appropriate title and statutory reference for the principal insurance regulatory official of the State.)

(F) "Consumer report" means any written, oral or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode [illegible] used or expected to be used in connection [illegible] establishing

(G) "Consumer reporting agency" means any person who

(1) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee,

(2) obtains information primarily from sources other than insurance institutions, and

(3) furnishes consumer reports to other persons.

(H) "Control", including the terms "controlled by" or "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(I) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(J) "Individual" means any natural person who:

(O) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

(P) "Medical-care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to: health-maintenance organizations, home-health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies and skilled nursing facilities.

(Q) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker or speech therapist.

(R) "Medical-record information" means personal information which:

(1) relates to an individual's physical or mental condition, medical history or medical treatment, and

(2) is obtained from a medical professional or medical-care institution, from the individual, or from the individual's spouse, parent or legal guardian.

(S) "Person" means any natural person, corporation, association, partnership or other legal entity.

(T) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" includes an individual's name and address and "medical-record information" but does not include "privileged information".

(U) "Policyholder" means any person who:

(1) in the case of individual property or casualty insurance, is a present named insured,

(2) in the case of individual life, health or disability insurance, is a present policyowner, or

(3) in the case of group insurance which is individually underwritten, is a present group certificateholder.

(V) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) pretends to be someone he or she is not,

(2) pretends to represent a person he or she is not in fact representing,

(3) misrepresents the true purpose of the interview, or

(4) refuses to identify himself or herself upon request.

(W) "Privileged information" means any individually identifiable information that:

(1) relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual, and

(2) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual;

NAIC INSURANCE INFORMATION AND PRIVACY PROTECTION MODEL ACT

—Text of Model Act as Revised in December 1980—

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Preamble.

The purpose of this Act is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

Section 1. Scope.

(A) The obligations by this Act shall apply to those insurance institutions, agents or insurance-support organizations which, on or after the effective date of this Act:

(1) in the case of life, health and disability insurance:

(a) collect, receive or maintain information in connection with insurance transactions which pertains to natural persons who are residents of this State, or

(b) engage in insurance transactions with applicants, individuals or policyholders who are residents of this State, and

(2) in the case of property or casualty insurance:

(a) collect, receive or maintain information in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this State, or

(b) engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this State.

(B) The rights granted by this Act shall extend to:

(1) in the case of life, health or disability insurance, the following persons who are residents of this State:

(a) natural persons who are the subject of information collected, received or maintained in connection with insurance transactions, and

(b) applicants, individuals or policyholders who engage in or seek to engage in insurance transactions, and

(2) in the case of property or casualty insurance, the following persons:

(a) natural persons who are the subject of information collected, received or maintained in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this State, and

(b) applicants, individuals or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this State.

(C) For purposes of this section, a person shall be considered a resident of this State if the person's last known mailing address, as shown in the records of the insurance institution, agent or insurance-support organization, is located in this State.

(D) Notwithstanding subsections (A) and (B) above, this Act shall not apply to information collected from the public records of a governmental authority and maintained by an insurance institution or its representatives for the purpose of insuring the title to real property located in this State.

Section 2. Definitions.

As used in this Act:

(A) "Adverse underwriting decision" means:

(1) any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(a) a declination of insurance coverage,

(b) a termination of insurance coverage,

(c) failure of an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which is requested by an applicant,

(d) in the case of a property or casualty insurance coverage:

i. placement by an insurance institution or agent of a risk with a residual market mechanism, an unauthorized insurer or an insurance institution which specializes in substandard risks, or

ii. the charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished,

Drafting Note: The use of the term "substandard" in paragraph 2(A)(1)(d)(i) is intended to apply to those insurance institutions whose rates and market orientation are directed at risks other than preferred or standard risks. To facilitate compliance with this Act, Commissioners shoud consider developing a list of insurance institutions operating in their state which specialize in substandard risks and make it known to insurance institutions and agents.

(e) in the case of a life, health or disability insurance coverage, an offer to insure at higher than standard rates.

(2) Notwithstanding subsection (1) above, the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(a) the termination of an individual policy form on a class or statewide basis,

(b) a declination of insurance coverage solely because such coverage is not available on a class or statewide basis, or

(c) the rescission of a policy.

(B) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(C) "Agent" means _____. (Make reference here to every appropriate statutory category of producer, including brokers, authorized to do business in the State. This is necessary because in many states different types of producers or producers for certain types of insurance institutions are referred to by specific statutory terms in the insurance code.)

(D) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(E) "Commissioner" means _____. (Insert the appropriate title and statutory reference for the principal insurance regulatory official of the State.)

(F) "Consumer report" means any written, oral or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used in connection with [illegible] transaction.

(G) "Consumer reporting agency" means any person who:

(1) regularly engages, in whole or in part, in the practice of assembling or preparing consumer reports for a monetary fee,

(2) obtains information primarily from sources other than insurance institutions, and

(3) furnishes consumer reports to other persons.

(H) "Control", including the terms "controlled by" or "under common control with", means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(I) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(J) "Individual" means any natural person who:

(1) in the case of property or casualty insurance, is a past, present or proposed named insured or certificateholder;

(2) in the case of life, health or disability insurance, is a past, present or proposed principal insured or certificateholder;

(3) is a past, present or proposed policyowner;

(4) is a past or present applicant;

(5) is a past or present claimant; or

(6) derived, derives or is proposed to derive insurance coverage under an insurance policy or certificate subject to this Act.

(K) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution or insurance-support organization, other than:

(1) an agent,

(2) the individual who is the subject of the information, or

(3) a natural person acting in a personal capacity rather than in a business or professional capacity.

(L) "Insurance institution" means any corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance, including health maintenance organizations, medical service plans and hospital service plans as defined in _____. [Insert the applicable sections of the State insurance code which define health maintenance organizations or medical or hospital service plans.] "Insurance institution" shall not include agents or insurance-support organizations.

(M) "Insurance-support organization" means

any person who regularly engages in whole or in part in the practice of assembling or collecting information about persons for the primary purpose of providing such information to an insurance institution or agent for insurance transactions, including:

(a) the furnishing of investigative consumer reports to an insurance institution or agent for use in connection with [illegible] or

(b) the collection of personal information from insurance institutions, agents or other insurance-support organizations *for the purpose of detecting or preventing* fraudulent material misrepresentation or material nondisclosure in connection with underwriting or insurance claim activity.

(2) Notwithstanding subsection (1) above, the following persons shall *not* be considered "insurance-support organizations" *for purposes of this Act*: agents, government insurance institutions, medical care institutions and medical professionals.

(N) "Insurance transaction" means any transaction involving insurance primarily for personal, family or household needs rather than business or professional need which entails

(1) the determination of an individual's eligibility for an insurance coverage, benefit or payment, or

(2) the servicing of an insurance application, policy, contract or certificate.

(O) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

(P) "Medical-care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to: health-maintenance organizations, home-health agencies, hospitals, medical clinics, public health agencies, rehabilitation agencies and skilled nursing facilities.

(Q) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a chiropractor, clinical dietitian, clinical psychologist, dentist, nurse, occupational therapist, optometrist, pharmacist, physical therapist, physician, podiatrist, psychiatric social worker or speech therapist.

(R) "Medical-record information" means personal information which:

(1) relates to an individual's physical or mental condition, medical history or medical treatment, and

(2) is obtained from a medical professional or medical-care institution, from the individual, or from the individual's spouse, parent or legal guardian.

(S) "Person" means any natural person, corporation, association, partnership or other legal entity.

(T) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character, habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" includes an individual's name and address and "medical-record information" but does not include "privileged information".

(U) "Policyholder" means any person who:

(1) in the case of individual property or casualty insurance, is a present named insured,

(2) in the case of individual life, health or disability insurance, is a present policyowner, or

(3) in the case of group insurance which is individually underwritten, is a present group certificateholder.

(V) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) pretends to be someone he or she is not,

(2) pretends to represent a person he or she is not in fact representing,

(3) misrepresents the true purpose of the interview, or

(4) refuses to identify himself or herself upon request.

(W) "Privileged information" means any individually identifiable information that:

(1) relates to a claim for insurance benefits or a civil or criminal proceeding involving an individual, and

(2) is collected in connection with or in reasonable anticipation of a claim for insurance benefits or civil or criminal proceeding involving an individual;

provided, however, information otherwise meeting the requirements of this subsection shall nevertheless be considered "personal information" under this Act if it is disclosed in violation of section 13 of this Act.

Drafting Note: The phrase "in reasonable anticipation of a claim" contemplates that the insurance institution has knowledge of a loss but has not received formal notice of the claim.

(X) "Residual market mechanism" means an association, organization or other entity defined or described in section(s) _____. (Insert those sections of the State insurance code authorizing the establishment of a FAIR Plan, assigned risk plan, reinsurance facility, joint underwriting association, etc.)

Drafting Note: Those states having a reinsurance facility may want to exclude it from this definition if the state's policy is not to disclose to insureds the fact that they have been reinsured in the facility.

(Y) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation or nonrenewal of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(Z) "Unauthorized insurer" means an insurance institution that has not been granted a certificate of authority by the Commissioner to transact the business of insurance in this state.

Drafting Note: Each state must make sure that this definition is consistent with its surplus lines laws.

Section 3. Pretext Interviews.

No insurance institution, agent or insurance-support organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction; provided, however, a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person about whom the information relates for the purpose of investigating a claim where, based upon scientific information available for review by the Commissioner, there is a reasonable basis for suspecting criminal activity, fraud, material misrepresentation or material nondisclosure in connection with the claim.

Drafting Note: Some states may desire to eliminate the exception in this section and thereby prohibit pretext interviews in all instances. Other states may desire to broaden the exception so that pretext interviews can be utilized in underwriting and rating situations as well as claim situations. States may either expand or limit the prohibition against pretext interviews suggested in this section to accomodate their individual needs and circumstances. Deviation from the standard developed here should not seriously undermine efforts to achieve uniform rules for insurance information practices throughout the various states.

Section 4. Notice of Insurance Information Practices.

(A) An insurance institution or agent shall provide a notice of information practices to all applicants or policyholders in connection with insurance transactions as provided below:

(1) in the case of an application for insurance, a notice shall be provided no later than:

(a) at the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant or from public records, or

(b) at the time the collection of personal information is initiated when personal information is collected from a source other than the applicant or public records;

(2) in the case of a policy renewal, a notice shall be provided no later than the policy renewal date, except that no notice shall be required in connection with a policy renewal if:

(a) personal information is collected only from the policyholder or from public records, or

(b) a notice meeting the requirements of this section has been given within the previous twenty-four (24) months; or

(3) in the case of a policy reinstatement or change in insurance benefits, a notice shall be

provided no later than the time a request for a policy reinstatement or change in insurance benefits is received by the insurance institution, except that no notice shall be required if personal information is collected only from the policyholder or from public records.

(B) The notice required by subsections (A) above shall be in writing and shall state:

(1) whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) the types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect such information;

(3) the types of [disclosures] identified in subsections (B), (C), (D), (E), (F), (I), (K), (L) and (N) of section 13 of this Act and the circumstances under which such disclosures may be made without prior authorization; provided, however, only those circumstances need be described which occur with such frequency as to indicate a general business practice;

(4) a description of the rights established under sections 8 and 9 of this Act and the manner in which such rights may be exercised; and

(5) that information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons.

(C) In lieu of the notice prescribed in subsection (B), the insurance institution or agent may provide an abbreviated notice informing the applicant or policyholder that:

(1) personal information may be collected from persons other than the individual or individuals proposed for coverage,

(2) such information as well as other personal or privileged information subsequently collected by the insurance institution or agent may in certain circumstances be disclosed to third parties without authorization,

(3) a right of access and correction exists with respect to all personal information collected, and

(4) the notice prescribed in subsection (B) will be furnished to the applicant or policyholder upon request.

(D) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

Drafting Note: If permitted under section 4(A), an insurance institution or agent may include the notice in the insurance policy or certificate.

Section 5. Marketing and Research Surveys.

An insurance institution or agent shall clearly specify those questions designed to obtain information solely for marketing or research purposes from an individual in connection with an insurance transaction.

Section 6. Content of Disclosure Authorization Forms.

Notwithstanding any other provision of law of this State, no insurance institution, agent or insurance-support organization may utilize as its disclosure authorization form in connection with insurance transactions a form or statement which authorizes the disclosure of personal or privileged information about an individual to the insurance institution, agent or insurance-support organization unless the form or statement:

(A) is written in plain language;

(B) is dated;

(C) specifies the types of persons authorized to disclose information about the individual;

(D) specifies the nature of the information authorized to be disclosed;

(E) names the insurance institution or agent and identifies by generic reference representatives of the insurance institution to whom the individual is authorizing information to be disclosed;

(F) specifies the purposes for which the information is collected;

(G) specifies the length of time such authorization shall remain valid, which shall be no longer than:

(1) in the case of authorizations signed for the purpose of collecting information in connection with an application for an insurance policy, a policy reinstatement or a request for change in policy benefits:

(a) thirty (30) months from the date the authorization is signed if the application or request involves life, health or disability insurance,

(b) one (1) year from the date the authorization is signed if the application or request involves property or casualty insurance;

(2) in the case of authorizations signed for the purpose of collecting information in connection with a claim for benefits under an insurance policy,

(a) the term of coverage of the policy if the claim is for a health insurance benefit,

(b) the duration of the claim if the claim is not for a health insurance benefit; and

(H) advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

Drafting Note: The standard established by this section for disclosure authorization forms is intended to supersede any existing requirements a state may have adopted even if such requirements are more specific or applicable to particular authorizations such as medical information authorizations. This section is intended to be the exclusive statutory standard for all authorization forms utilized by insurance institutions, agents or insurance-support organizations. This section does not preclude the inclusion of a disclosure authorization in an application form nor invalidate any disclosure authorizations in effect prior to the effective date of this Act. Nor does this section preclude an insurance institution, agent or insurance-support organization from obtaining, in addition to its own authorization form which complies with this section, an additional authorization form required by the person from whom disclosure is sought.

Section 7. Investigative Consumer Reports.

(A) No insurance institution, agent or insurance-support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or agent informs the individual:

(1) that he or she may request to be interviewed in connection with the preparation of the investigative consumer report, and

(2) that upon a request pursuant to section 8, he or she is entitled to receive a copy of the investigative consumer report.

(B) If an investigative consumer report is to be prepared by an insurance institution or agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

(C) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or agent desiring such report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct such interviews, if requested.

Section 8. Access to Recorded Personal Information.

(A) If any individual, after proper identification, submits a written request to an insurance institution, agent or insurance-support organization for access to recorded personal information about the individual which is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance-support organization, the insurance institution, agent or insurance-support organization shall within thirty (30) business days from the date such request is received:

(1) inform the individual of the nature and substance of such recorded personal information in writing, by telephone or by other oral communication, whichever the insurance insitution, agent or insurance-support organization prefers;

(2) permit the individual to see and copy, in person, such recorded personal information pertaining to him or her or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent or insurance-support organization has disclosed such personal information within two (2) years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance-support organizations or other persons to whom such information is normally disclosed; and

(4) provide the individual with a summary of the procedures by which he or she may request correction, amendment or deletion of recorded personal information.

(B) Any personal information provided pursuant to subsection (A) above shall identify the source of the information if such source is an institutional source.

(C) Medical-record information supplied by a medical-care institution or medical professional and requested under subsection (A), together with the identity of the medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent or insurance-support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(D) Except for personal information provided under section 10, an insurance institution, agent or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing a copy of recorded personal information to individuals.

(E) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subsection (A), an insurance institution, agent or insurance-support organization may make arrangements with an insurance-support organization or a consumer reporting agency to copy and disclose recorded personal information on its behalf.

(F) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation

of a claim or civil or criminal proceeding involving them.

(G) For purposes of this section, the term "insurance-support organization" does not include "consumer reporting agency" except to the extent this section imposes more stringent requirements on a consumer reporting agency than other state or federal law.

Section 9. Correction, Amendment or Deletion of Recorded Personal Information.

(A) Within thirty (30) business days from the date of receipt of a written request from an individual to correct, amend or delete any recorded personal information about the individual within its possession, an insurance institution, agent or insurance-support organization shall either:

(1) correct, amend or delete the portion of the recorded personal information in dispute; or

(2) notify the individual of:

(a) its refusal to make such correction, amendment or deletion,

(b) the reasons for the refusal, and

(c) the individual's right to file a statement as provided in subsection (C).

(B) If the insurance institution, agent or insurance-support organization corrects, amends or deletes recorded personal information in accordance with subsection (A)(1) above, the insurance institution, agent or insurance-support organization shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to:

(1) any person specifically designated by the individual who may have, within the preceding two (2) years, received such recorded personal information;

(2) any insurance-support organization whose primary source of personal information is insurance institutions if the insurance-support organization has systematically received such recorded personal information from the insurance institution within the preceding seven (7) years; provided, however, that the correction, amendment or fact of deletion need not be furnished if the insurance-support organization no longer maintains recorded personal information about the individual; and

(3) any insurance-support organization that furnished the personal information that has been corrected, amended or deleted.

(C) Whenever an individual disagrees with an insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information, the individual shall be permitted to file with the insurance institution, agent or insurance-support organization:

(1) a concise statement setting forth what the individual thinks is the correct, relevant or fair information, and

(2) a concise statement of the reasons why the individual disagrees with the insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information

(D) In the event an individual files either statement as described in subsection (C) above, the insurance institution, agent or insurance-support organization shall:

(1) file the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it, and

(2) in any subsequent disclosure by the insurance institution, agent or support organization of the recorded personal information that is the subject of disagreement, clearly identify the matter or matters in dispute and provide the individual's statement along with the recorded personal information being disclosed, and

(3) furnish the statement to the persons and in the manner specified in subsection (B) above.

(E) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subsection shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

(F) For purposes of this section, the term "insurance-support organization" does not include "consumer reporting agency" except to the extent that this section imposes more stringent requirements on a consumer reporting agency than other state or federal law.

Section 10. Reasons for Adverse Underwriting Decisions.

(A) In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision shall:

(1) either provide the applicant, policyholder or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advise such person that upon written request he or she may receive the specific reason or reasons in writing, and

(2) provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under subsection (B) and sections 8 and 9 of this Act.

(B) Upon receipt of a written request within ninety (90) business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within twenty-one (21) business days from the date of receipt of such written request:

(1) the specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to subsection (A)(1);

(2) the specific items of personal and privileged information that support those reasons; provided, however:

(a) the insurance institution or agent shall not be required to furnish specific items of privileged information if it has a reasonable suspicion, based upon specific information available for review by the Commissioner, that the applicant, policyholder or individual proposed for coverage has engaged in criminal activity, fraud, material misrepresentation or material nondisclosure, and

(b) specific items of medical-record information supplied by a medical-care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution or agent prefers, and

Drafting Note: The exception in paragraph (10)(B)(2)(a) to the obligation of an insurance institution or agent to furnish the specific items of personal and privileged information that support the reasons for an adverse underwriting decision extends only to information about criminal activity, fraud, material misrepresentation or material nondisclosure that is privileged information and not to all information.

(3) the names and addresses of the institutional sources that supplied the specific items of information pursuant to subsection (B)(2); provided, however, that the identity of any medical professional or medical-care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the insurance institution or agent prefers.

(C) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(D) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subsection (A) may be given orally.

Section 11. Information Concerning Previous Adverse Underwriting Decisions.

No insurance institution, agent or insurance-support organization may seek information in connection with an insurance transaction concerning:

(A) any previous adverse underwriting decision experienced by an individual, or

(B) any previous insurance coverage obtained by an individual through a residual market mechanism,

unless such inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

Section 12. Previous Adverse Underwriting Decisions.

No insurance institution or agent may base an adverse underwriting decision in whole or in part:

(A) on the fact of a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism; provided, however, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision;

(B) on personal information received from an insurance-support organization whose primary source of information is insurance institutions; provided, however, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as the result of information received from such insurance-support organization.

Section 13. Disclosure Limitations and Conditions.

An insurance institution, agent or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(A) with the written authorization of the individual, provided:

(1) if such authorization is submitted by another insurance institution, agent or insurance-support organization, the authorization meets the requirement of section 6 of this Act, or

(2) if such authorization is submitted by a person other than an insurance institution, agent or insurance-support organization, the authorization is:

(a) dated,

(b) signed by the individual, and

(c) obtained one (1) year or less prior to the date a disclosure is sought pursuant to this subsection; or

(B) to a person other than an insurance institution, agent or insurance-support organization, provided such disclosure is reasonably necessary:

(1) to enable such person to perform a business, professional or insurance function for the disclosing insurance institution, agent or insurance-support organization and such person agrees not to disclose the information further without the individual's written authorization unless the further disclosure:

(a) would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization, or

(b) is reasonably necessary for such person to perform its function for the disclosing insurance institution, agent or insurance-support organization; or

(2) to enable such person to provide information to the disclosing insurance institution, agent or insurance-support organization for the purpose of:

(a) determining an individual's eligibility for an insurance benefit or payment, or

(b) detecting or preventing criminal activity, fraud, material misrepresentation or material nondisclosure in connection with an insurance transaction; or

(C) to an insurance institution, agent, insurance-support organization, or self-insurer, provided the information disclosed is limited to that which is reasonable necessary:

(1) to detect or prevent criminal activity, fraud, material misrepresentation or material nondisclosure in connection with insurance transactions, or

(2) for either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its function in connection with an insurance transaction involving the individual; or

(D) to a medical-care institution or medical professional for the purpose of:

(1) verifying insurance coverage or benefits,

(2) informing an individual of a medical problem of which the individual may not be aware, or

(3) conducting an operations or services audit to verify the individuals treated by the medical professional or at the medical-care institution,

provided only such information is disclosed as is reasonably necessary to accomplish the foregoing purposes; or

(E) to an insurance regulatory authority; or

(F) to a law enforcement or other governmental authority:

(1) to protect the interests of the insurance institution, agent or insurance-support organization in preventing or prosecuting the perpetration of fraud upon it, or

(2) if the insurance institution, agent or insurance-support organization reasonably believes that illegal activities have been conducted by the individual; or

(G) otherwise permitted or required by law; or

(H) in response to a facially valid administrative or judicial order, including a search warrant or subpoena; or

(I) made for the purpose of conducting actuarial or research studies, provided:

(1) no individual may be identified in any actuarial or research report,

(2) materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed, and

(3) the actuarial or research organization agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization; or

(J) to a party or representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance institution, agent or insurance-support organization, provided:

(1) prior to the consummation of the sale, transfer, merger or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger or consolidation, and

(2) the recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization; or

(K) to a person whose only use of such information will be in connection with the marketing of a product or service, provided:

(1) no medical-record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living or general reputation is disclosed, and no classification derived from such information is disclosed,

(2) the individual has been given an opportunity to indicate that he or she does not want personal information disclosed for marketing purposes and has given no indication that he or she does not want the information disclosed, and

(3) the person receiving such information agrees not to use it except in connection with the marketing of a product or service; or

(L) to an affiliate whose only use of the information will be in connection with an audit of the insurance institution or agent or the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; or

(M) by a consumer reporting agency, provided the disclosure is to a person other than an insurance institution or agent; or

(N) to a group policyholder for the purpose of reporting claims experience or conducting an audit of the insurance institution's or agent's operations or services, provided the information disclosed is reasonably necessary for the group policyholder to conduct the review or audit; or

(O) to a professional peer review organization for the purpose of reviewing the service or conduct of a medical-care institution or medical professional; or

(P) to a governmental authority for the purpose of determining the individual's eligibility for health benefits for which governmental authority may be liable; or

(Q) to a certificateholder or policyholder for the purpose of providing information regarding the status of an insurance transaction.

Section 14. Power of Commissioner.

(A) The Commissioner shall have power to examine and investigate into the affairs of every insurance institution or agent doing business in this State to determine whether the insurance institution or agent has been or is engaged in any conduct in violation of this Act.

(B) The Commissioner shall have the power to examine and investigate into the affairs of every insurance-support organization acting on behalf of an insurance institution or agent which either transacts business in this State or transacts business outside this State that has an effect on a person residing in this State in order to determine whether such insurance-support organization has been or is engaged in any conduct in violation of this Act.

Section 15. Hearings, Witnesses, Appearances, Production of Books and Service of Process.

(A) Whenever the Commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this State which violates this Act, or if the Commissioner believes that an insurance-support organization has been or is engaged in conduct outside this State which has an effect on a person residing in this State and which violates this Act, the Commissioner shall issue and serve upon such

insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than (insert number) days after the date of service.

(B) At the time and place fixed for such hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the Commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(C) At any hearing conducted pursuant to this section the Commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The Commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the Commissioner. If no stenographic record is made and if judicial review is sought, the Commissioner shall prepare a statement of the evidence for use on the review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to adminstrative proceedings conducted under the laws of this State.

(D) Statements of charges, notices, orders and other processes of the Commissioner under this Act may be served by anyone duly authorized to act on behalf of the Commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this Act have been allegedly violated. A verified return setting forth the manner of service, or return postcard receipt in the case of registered mail, shall be sufficient proof of service.

Section 16. Service of Process—Insurance-Support Organizations.

For the purpose of this Act, an insurance-support organization transacting business outside this State which has an effect on a person residing in this State shall be deemed to have appointed the Commissioner to accept service of process on its behalf, provided the Commissioner causes a copy of such service to be mailed forthwith by registered mail to the insurance-support organization at its last known principal place of business. The return postcard receipt for such mailing shall be sufficient proof that the same was properly mailed by the Commissioner.

Section 17. Cease and Desist Orders and Reports.

(A) If, after a hearing pursuant to section 15, the Commissioner determines that the insurance institution, agent or insurance-support organization charged has engaged in conduct or practices in violation of this Act, the Commissioner shall reduce his or her findings to writing and shall issue and cause to be served upon such insurance institution, agent or insurance-support organization a copy of such findings and an order requiring such insurance institution, agent or insurance-support organization to cease and desist from the conduct or practices constituting a violation of this Act.

(B) If, after a hearing pursuant to section 15, the Commissioner determines that the insurance institution, agent or insurance-support organization charged has not engaged in conduct or practices in violation of this Act, the Commissioner shall prepare a written report which sets forth findings of fact and conclusions of law. Such report shall be served upon the insurance institution, agent or insurance-support organization charged and upon the person or persons, if any, whose rights under this Act were allegedly violated.

(C) Until the expiration of the time allowed under section 19 of this Act for filing a petition for review or until such petition is actually filed, whichever occurs first, the Commissioner may modify or set aside any order or report issued under this section. After the expiration of the time allowed under section 19 of this Act for filing a petition for review, if no such petition has been duly filed, the Commissioner may, after notice and opportunity for hearing, alter, modify or set aside, in whole or in part, any order or report issued under this section whenever conditions of fact or law warrant such action or if the public interest so requires.

Section 18. Penalties.

(A) In any case where a hearing pursuant to section 15 results in the finding of a knowing violation of this Act, the Commissioner may, in addition to the issuance of a cease and desist order as prescribed in section 17, order payment of a monetary penalty of not more than ($500) for each violation but not to exceed ($10,000) in the aggregate for multiple violations.

(B) Any person who violates a cease and desist order of the Commissioner under section 17 of this Act may, after notice and hearing and upon order of the Commissioner, be subject to one or more of the following penalties, at the discretion of the Commissioner:

(1) a monetary fine of not more than ($10,000) for each violation,

(2) a monetary fine of not more than ($50,000) if the Commissioner finds that violations have occurred with such frequency as to constitute a general business practice, or

(3) suspension or revocation of an insurance institution's or agent's license.

Section 19. Judicial Review of Orders and Reports.

(A) Any person subject to an order of the Commissioner under section 17 or section 18 or any person whose rights under this Act were allegedly violated may obtain a review of any order or report of the Commissioner by filing in the (insert title) court of (insert county) county, within (insert number) days from the date of the service of such order or report, a written petition requesting that the order or report of the Commissioner be set aside. A copy of such petition shall be simultaneously served upon the Commissioner, who shall forthwith certify and file in such court a transcript of the entire record of the proceeding giving rise to the order or report which is the subject of the petition. Upon filing of the petition and transcript the (insert title) court shall have jurisdiction to make and enter a decree modifying, affirming or reversing any order or report of the Commissioner, in whole or in part. The findings of the Commissioner as to the facts supporting any order or report, if supported by clear and convincing evidence, shall be conclusive.

(B) To the extent an order or report of the Commissioner is affirmed, the court shall issue its own order commanding obedience to the terms of the order or report of the Commissioner. If any party affected by an order or report of the Commissioner shall apply to the court for leave to produce additional evidence and shall show to the satisfaction of the court that such additional evidence is material and that there are reasonable grounds for the failure to produce such evidence in prior proceedings, the court may order such additional evidence to be taken before the Commissioner in such manner and upon such terms and conditions as the court may deem proper. The Commissioner may modify his or her findings of fact or make new findings by reason of the additional evidence so taken and shall file such modified or new findings along with any recommendation, if any, for the modification or revocation of a previous order or report. If supported by clear and convincing evidence, the modified or new findings shall be conclusive as to the matters contained therein.

(C) An order or report issued by the Commissioner under sections 17 or 18 shall become final:

(1) upon the expiration of the time allowed for the filing of a petition for review, if no such petition has been duly filed; except that the Commissioner may modify or set aside an order or report to the extent provided in section 17(C), or

(2) upon a final decision of the (insert title) court if the court directs that the order or report of the Commissioner be affirmed or the petition for review dismissed.

(D) No order or report of the Commissioner under this Act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order or report from any liability under any law of this State.

Section 20. Individual Remedies.

(A) If any insurance institution, agent or insurance-support organization fails to comply with

sections 8, 9 or 10 of this Act with respect to the rights granted under those sections, any person whose rights are violated may apply to the (insert title) court of this State, or any other court of competent jurisdiction, for appropriate equitable relief.

(B) An insurance institution, agent or insurance-support organization which discloses information in violation of section 13 of this Act shall be liable for damages sustained by the individual about whom the information relates; provided, however, that no individual shall be entitled to a monetary award which exceeds the actual damages sustained by the individual as a result of a violation of section 13 of this Act.

(C) In any action brought pursuant to this section, the court may award the cost of the action and reasonable attorney's fees to the prevailing party.

(D) An action under this section must be brought within two years from the date the alleged violation is or should have been discovered.

(E) Except as specifically provided in this section, there shall be no remedy or recovery available to individuals, in law or in equity, for occurrences constituting a violation of any provisions of this Act.

Section 21. Immunity.

No cause of action in the nature of defamation, invasion of privacy or negligence shall arise against any person for disclosing personal or privileged information in accordance with this Act, nor shall such a cause of action arise against any person for furnishing personal or privileged information to an insurance institution, agent or insurance-support organization; provided, however, this section shall provide no immunity for disclosing or furnishing false information with malice or willful intent to injure any person.

Section 22. Obtaining Information Under False Pretenses.

Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent or insurance-support organization under false pretenses shall be fined not more than ($10,000) or imprisoned for not more than one (1) year, or both.

Section 23. Severability.

If any provisions of this Act or the application thereof to any person or circumstance is for any reason held to be invalid, the remainder of the Act and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 24. Effective Date.

(A) This Act shall take effect on (insert a date which allows at least a one (1) year interval between the date of enactment and the effective date).

(B) The rights granted under sections 5, 9 and 13 of this Act shall take effect on (insert effective date) regardless of the date of the collection or receipt of the information which is the subject of such sections.

Legislative History (all references are to Proceedings of the NAIC)

1980 NAIC Proc. I
1980 Proc. II

(14) miscellaneous: insurance against any other kind of loss, damage, or liability properly a subject of insurance and not within another kind of insurance as defined in this chapter, if the insurance is not disapproved by the director as being contrary to law or public policy.

(b) Provision of medical, hospital, surgical, and funeral benefits, and of coverage against accidental death or injury, as incidental to and part of other insurance as stated under (a) (1), (2), (4), and (10) of this section, shall for all purposes be considered to be the same kind of insurance to which it is incidental, and shall not be subject to provisions of this title applicable to life or disability insurances. (§ 1 ch 120 SLA 1966)

ALR references.—Validity of automobile liability insurance policy, 6 ALR 377; 13 ALR 135; 19 ALR 879; 23 ALR 879; 41 ALR 508.

Sec. 21.12.080. Surety insurance defined. Surety insurance includes

(1) fidelity insurance, which is insurance guaranteeing the fidelity of persons holding positions of public or private trust;

(2) insurance guaranteeing the performance of contracts, other than insurance policies, and guaranteeing and executing bonds, undertakings, and contracts of suretyship;

(3) insurance indemnifying banks, bankers, brokers, financial or moneyed corporations or associations against loss, resulting from any cause, of bills of exchange, notes, bonds, securities, evidences of debt, deeds, mortgages, warehouse receipts or other valuable papers, documents, money, precious metals and articles made therefrom, jewelry, watches, necklaces, bracelets, gems, precious and semiprecious stones, including loss while being transported in armored motor vehicles or by messenger, but not including any other risks of transportation or navigation; also insurance against loss or damage to an insured's premises or to his furnishings, fixtures, equipment, safes, and vaults therein, caused by burglary, robbery, theft, vandalism, or malicious mischief, or attempted burglary, robbery, theft, vandalism, or malicious mischief. (§ 1 ch 120 SLA 1966)

Am. Jur. and C.J.S. references.—
29 Am. Jur., Suretyship, § 324 et seq.
44 C.J.S. Insurance § 891.

Sec. 21.12.090. Marine, wet marine and transportation insurance defined. (a) "Marine insurance" includes

(1) insurance against any and all kinds of loss or damage to

(A) vessels, craft, aircraft, cars, automobiles and vehicles of every kind, as well as all goods, freights, cargoes, merchandise, effects, disbursements, profits, money, bullion, precious stones, securities, choses in action, evidences of debt, valuable papers, bottomry and respondentia interests and all other kinds of prop-

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THE PROPOSED ALASKA CORPORATIONS CODE: AN OVERVIEW

The Need for Revision: The current Alaska Business Corporations Act (ABCA) was adopted in 1957. It was a copy of the then existing corporations code in the State of Oregon which was, in turn, a version of the Model Business Corporation Act. The Model Act, or MBCA, was drafted by the business law section of the American Bar Association and has been adopted, in whole or in part, by more than half of the states. It is thus evident that it is a "general" statute which has been drawn up without regard to the economic, physical, or social conditions which may require attention in any specific state. The Model Act went through major revisions in 1962 and 1969 and experienced lesser changes in 1973 and 1977. This activity is suggestive of the fact that business problems and the climate of their legal regulation are not static. While there have been occasional amendments to the Alaska code, there has been no attempt to react to the significant changes in the Model Act which have been recommended since that time.

In the nearly thirty years since the ABCA's enactment other jurisdictions have devoted substantial energy to rethinking and redrafting the content of their corporate laws. Delaware, New York, and California have evolved approaches which may prove more attractive to Alaskans than either the historical or current

content of the Model Act. When these developments in the law were viewed along with the very significant changes within the population and economy of Alaska since 1957, the Code Revision Commission was of the view that the existing ABCA was deserving of thorough study.

The Goals of the Commission and Some Basic Value Judgments:

The goal of the Commission was to design a statute which would assist individuals in appreciating the obligations associated with business in the corporate form as well as the choices which should be confronted at the outset of corporate organization. In this respect the Model Act and current Alaska law were found quite deficient. Closely related topics are scattered throughout the statute with the consequence that individuals may never appreciate the "big picture." The rights of shareholders, the duties of officers and directors, the circumstances under which corporate assets may be distributed to shareholders, and the obligations to report to the state on aspects of corporate activity are set forth without consistency or order.

An initial value judgment concerns the degree to which the statute ought to be biased toward a strong board of directors or in the direction of maximum accountability to the shareholders. Delaware provides an example of a management oriented statute while California stands at the opposite extreme. Ultimately,

the Commission decided to draft a statute which had no internal bias. Hence, it was decided that the new Alaska act should impose the fewest possible restrictions while clearly articulating the choices Alaskans could make with respect to their individual desires. Thus, under the proposed act it is possible to have a corporation designed with a strong board of directors who are relatively insulated from accountability to shareholders. However, it is equally possible to organize a corporation under the proposed Alaska Corporations Code (ACC) which would produce the opposite result.

To facilitate making these choices, the format of the new statute divides the code into thirteen articles. The scheme takes a corporation from organization through dissolution. With minor adjustments, this framework is borrowed from the New York Business Corporations Law which has been widely praised by members of the business community, accountants, lawyers, and government officials.

Some of the More Important Substantive Changes:

As will be elaborated in the article-by-article analysis which follows, the Commission draft works some important changes in Alaska law. Many of these changes are adapted from provisions of the 1977 California General Corporation Law, the New York Business Corporations Law, and the Delaware code. Others have been originated by the Commission in collaboration

with its consultant, Daniel Wm. Fessler, Professor of Law, University of California, Davis.

The most striking major revision has been the elimination of the concepts of "earned surplus" and other concepts of "legal accounting" and their replacement with a far simpler test for determining when a corporation may make a distribution of cash or other property to its shareholders. The earned surplus test has proven an insufficient protection to business creditors and the holders of common stock. It has further proven unworkable when viewed by accountants, for it relied upon principles which either were never meaningful to that profession or which were long ago abandoned in favor of more useful tools. In this attempt to reform the language of the law and lawyers so that they can understand and be understood by the business community and accounting profession, the proposed Alaska law has been heavily influenced by the recent California act.

For the first time since statehood, Alaska will have a comprehensive statutory regulation of the shareholder's derivative suit. Under the law as it now stands, a rule of the Supreme Court, modeled upon the federal rule, is the only attempt to distinguish the meritorious shareholder action designed to remedy wrongs done to the corporation by its officers or directors from the "strike suit" brought with the hope that by vexing incumbent management the plaintiff will be "bought off" with an out of court settlement.

The use of the corporate form to victimize small unsecured creditors (including employees) will be far more difficult if the legislature enacts the Commissions's draft.

A uniform procedure for reporting to the state will be adopted, eliminating a source of significant past confusion. The articles dealing with formation are designed to be used much like a cookbook, with step by step stages focusing the attention of incorporators on the basic decisions which they will need to make.

The sum of all of these forms is a Commission draft which combines the best of corporate law as it has evolved in numerous jurisdictions. Notwithstanding these influences, the Commission has insisted that the physical and economic conditions of Alaska be kept in sharp focus, and that government intervention be kept at the minimum level necessary to protect citizens from those who would abuse the corporate form. With the law formulated to say what it means and mean what it says, it is the conviction of the Commission that the occasions for litigation have been significantly reduced.

GENERAL PROVISIONS.

A foundation for the ACC is created by the provisions of Articles 12 and 13. The ACC is made applicable to all business corporations formed under Alaska law since

statehood, and to foreign corporations authorized to do or doing business in Alaska. Rules of construction, definitions, and ground rules for voting shares and preparing and processing documents are set forth; these are basic materials upon which the remainder of the ACC relies. Further provisions of Article 13 allow for waiver of notice requirements, reserve power to the Legislature to amend the ACC at will (Section 10.06.965), declare severability (Section 10.06.963), and make special provisions for Native Corporations.

The applications section (10.06.955) cautiously follows a trend of increased regulation of foreign corporations. The general contours of the regulation imposed by prior law have been continued in Article 10. Additionally, Section 10.06.015 (the defense of ultra vires), Section 10.06.020 (limitations on authority of corporate agents), Section 10.06.155 (non-residents with controlling interests), Section 10.06.233 (regarding shareholder inspection of bylaws), Section 10.06.433 (annual reports to shareholders), Section 10.06.435 (derivative suits), Section 10.06.450(d) (director's absolute right of inspection), and Section 10.06.488 (secondary liability of officers and directors) are applicable to foreign corporations in Alaska. The Commission draft does not follow New York and California, in attempting plenary regulation of foreign entities which are

deemed to be "pseudo-foreign" corporations.

Extensive definitions are adopted to preclude ambiguity and to give precise meanings to terms used throughout the ACC.

ARTICLE 1: CORPORATE PURPOSE AND POWERS.

Existing law on the purposes and powers of corporations is continued with minor modifications in wording and coverage. Section 10.06.015 on the defense of ultra vires also represents a continuation of current law. The Commission's goal was to recast basic concepts in more precise language. Section 10.06.020 is a new provision which covers the power of corporate agents to bind the corporation and the capacity of the articles, bylaws, board resolutions or shareholder agreements to limit the authority of corporate agents in dealings with third parties.

ARTICLE 2: DOMESTIC CORPORATIONS.

The ACC provisions on corporate name, registered agent, registered office, and service of process are largely a continuation of existing law. A corporate name may be reserved prior to incorporation and must be registered annually by corporations desiring exclusive rights to the use of a name. A corporation must maintain a registered office and a registered agent in Alaska. Nonresidents with

controlling interests in either domestic or foreign corporations also must designate an agent within Alaska for service of process. Change of registered office or agent and the resignation of a registered agent are governed by Sections 10.06.165 and .170.

Section 10.06.160 imposes a duty on the Commissioner of Commerce and Economic Development to make available a list of all domestic corporations and authorized foreign corporations, including their names and addresses. A requirement of weekly updates guarantees that this list will provide current and reliable information to interested citizens. Section 10.06.175 details the procedure for service of process. Changes in this section include placing the burden of substitute service on the serving party rather than the commissioner, and requiring the serving party to make reasonable inquiry to locate a corporate defendant.

ARTICLE 3: FORMATION OF CORPORATIONS.

Several important changes are proposed in rules guiding the formation of corporations. Only natural persons 19 or older may act as incorporators.

Section 10.06.218 fixes the issuance of the certificate of incorporation as the bright line event commencing corporate existence and extending limited liability to those doing business in the corporate form. This section will

preclude vexing litigation respecting the status of enterprisers who have not obtained a certificate of incorporation but who have nonetheless attempted business in a corporate guise. Unless released by the terms of a written agreement, such enterprisers are personally liable to all third parties (Section 10.06.220). The common law doctrines of de jure compliance, de facto corporations, and corporations by estoppel are expressly abolished by Section 10.06.218.

Two provisions govern the contents of the articles of incorporation. Section 10.06.208 lists those matters which must be included in the original articles. Section 10.06.210 sets forth matters which may optionally be included. This section is vital in molding a corporation's legal character, for if the Section 10.06.210 issues are not decided by the articles they may not be implemented by the bylaws, board resolution, shareholder agreement, or otherwise. In combination, these sections compel those contemplating formation of a corporation to make basic decisions respecting its structure and the rights of shareholders. A further advantage is that a potential investor need look only to the articles to determine the basic structure of a corporate entity.

Naming directors in the original articles is no longer required. In recognition of the possibility that incorpor-

ators will be in control of the entity until the organization meeting, Section 10.06.225 specifies the powers of incorporators. These powers include adopting bylaws and electing directors but do not include transacting business or electing officers. An organizational meeting is required after the issuance of the certificate of incorporation, at which directors are to be elected (if none have been named in the articles), officers are to be appointed, and other business may be transacted.

Section 10.06.228 empowers both the board and the shareholders to adopt, amend, or repeal bylaws. The articles may remove this power from the board, but shareholders' power of amendment is mandatory under the ACC. Section 10.06.230 requires that the bylaws establish the number of directors if this has not been accomplished by the articles. A suggested list of matters which may be covered in the bylaws is also included in Section 10.06.230. Section 10.06.233 requires that bylaws be kept for shareholder inspection at the corporation's principal office.

ARTICLE 4: CORPORATE FINANCE.

The new provisions on corporate finance represent a significant departure from existing law. It is proposed that the former system limiting a corporation's right to pay

dividends and repurchase or redeem shares be replaced by a "ratio of assets to surplus" test long recommended by accountants as simpler and more protective of creditor and preferred shareholder rights. The provisions governing financing of a corporate venture through sale of securities (Sections 10.06.305 - .355) are largely continued from current law.

Under the Model Act and the current ABCA, elaborate provisions limit the circumstances under which a corporation may distribute its assets to shareholders. The weakness of this system is that it employs concepts unfamiliar to accountants and the business community. It has also become so riddled with exceptions as to impose little pragmatic check on individuals determined to abuse corporate creditors or holders of senior shares. This "earned surplus" test, and its allied concepts of stated capital and par value, have been swept aside in the Comission's draft of the ACC. While the new code continues to prohibit a distribution or the payment of a dividend that would render the corporation unable to meet its obligations as they mature (a condition of equitable insolvency), the balance of Article 4 is built around a simple concept relating corporate assets to liabilities.

Under Section 10.06.358, a distribution of assets to shareholders is permissible if either of two tests are met.

If the distribution can be made out of "retained earnings" (previously undistributed profits), the code has no objection and the decision is left to the business judgment of directors. If retained earnings are insufficient to fund the distribution, it still may be made provided that in the wake of the payment, the assets of the corporation are at least equal to 1.25 times liabilities and its current assets are at least equal to current liabilities. Sections 10.06.363 and .368 give basic protection to liquidation and dividend preferences with tests similar in nature to those of Section 10.06.358. Sections 10.06.368 (for redemption of shares of a deceased shareholder) and .370 (for regulated investment companies) are limited exceptions to these restraints.

Section 10.06.373 forbids shares of one class to be distributed as dividends to the shareholders of another class without the consent of the holders of the distributed class. Section 10.06.375 permits further prohibitions on the distribution of assets to be placed in the articles, bylaws, indentures or other agreements. Section 10.06.380 requires identification of dividends other than those chargeable to retained earnings in order to set the stage for shareholder's liability for illicit distributions. Section 10.06.383 makes the limitations of Article 4 inapplicable in a winding up and dissolution proceeding.

Section 10.06.385 specifies the procedure for redemption of shares; Section 10.06.388 provides for cancellation of redeemed or repurchased shares. Section 10.06.390 continues the policy of former law in permitting the board to capitalize all or part of the corporation's retained earnings.

ARTICLE 5: SHAREHOLDERS.

While numerous changes in the rights of shareholders are contained in the Commission's draft, the overall statutory framework continues prior law. Section 10.06.405 permits any shareholder to obtain a summary judicial order calling an annual meeting if the directors fail to convene such a meeting within thirteen months. Recognizing the communications problems frequently encountered in Alaska, the minimum period for notice of shareholder meetings has been increased to twenty days. The twenty day period also applies to the requirement of Section 10.06.413 that the shareholder list be made available for inspection. Once a quorum of shareholders has been obtained, Section 10.06.415(b) precludes a disgruntled minority from frustrating the other shareholders by staging a "walk out."

Protection of voting rights is firmly established under the Commission's draft. Proxies are presumptively limited to eleven months and their creation and revocation is

regulated by Section 10.06.418. Cumulative voting of shares in the election of directors is the norm unless eliminated by the articles. Under Section 10.06.423 shareholders are permitted to act informally without a meeting. Voting trusts can no longer be secret. Other shareholder agreements affecting voting rights are regulated by Section 10.06.425 and the common law. Preemptive rights are continued and regulated under Section 10.06.428.

Sections 10.06.430 and .433 greatly expand the circumstances under which shareholders can obtain information concerning the operation of the company by the directors and officers. To facilitate access to books and records, durational and numerical standing requirements have been eliminated so that any shareholder may inspect. To prevent this right from being used to harass management, a proper purpose for inspection is now required. Section 10.06.433 mandates that management provide shareholders an annual report. This important feature is supplemented by Section 10.06.433(c) which permits a sharholder to obtain recent financial reports upon demand.

Section 10.06.435 is the most comprehensive derivative suit statute in the United States. The present code contains no provision on this subject. In addition to protecting defendants from nuisance suits, Section 10.06.435 makes it impossible for a backdoor settlement to deprive the

corporation of the fruits of a recovery. Recent holdings in some jurisdictions that independent directors should be permitted to obtain the dismissal of a shareholder's derivative suit (on the theory that its prosecution is not, in the director's business judgment, in the best interests of the entity) are rejected by Section 10.06.435.

SECTION 6: DIRECTORS AND OFFICERS.

The basic framework of a potentially strong board acting through officers and agents is maintained, but the duties, liabilities and privileges of management have been altered in numerous particulars.

Section 10.06.450 gathers into one place basic provisions on the structure of corporate management. Four major issues are settled: (1) the exercise and delegation of board functions; (2) the standard for the duty of care which must be observed by directors, and the right of directors to rely upon certain information, opinions, reports or statements from officers, experts, or committees of the board on which they do not serve; (3) the absolute right of inspection of every director as to all corporate books, records and documents of every kind;and, (4) the consequences of a director's failure to dissent as to any action taken at a meeting at which such director was present.

Section 10.06.453 continues to require a minimum of three directors except in corporations with only one or two shareholders. The number of positions on the board of directors of a corporation must be fixed in the articles or in a shareholder adopted bylaw. Special representation may be given to a class of shareholders by making that class competent to elect one or more representatives to the board. Directors serve one year terms unless the total number of the board is nine or more in which case the board may be "classified" with directors serving staggered three year terms.

Under the ACC the majority of shares may remove incumbent directors at any time for any reason. This provision reflects the Commission's belief that the directors should at all times be satisfactory to the majority share interest. Minority interests may bring judicial proceedings to remove any director upon proof that the defendant is abusing the standards established under Section 10.06.463. Unless they result from removal, vacacies on the board may be filled by either the shareholders or the directors remaining in office.

The desire to achieve managerial efficiency is balanced against the goal of insuring effective minority representation in the ACC's provisions on delegation of board authority and function. An important safeguard is the provision

that delegation of functions does not relieve directo[illegible] their duty of care.

Section 10.06.475 recognizes that both distance and adverse travel conditions may sometimes hamper the ability of directors to meet formally. The ACC permits both the board and board committees to conduct meetings via communications equipment allowing simultaneous contact of all participants. If all of the members sign written consents, board action may be taken without any formal meeting.

Conflicts of interest are defined in two distinct and classical instances: where the contract or other transaction is between the corporation and one or more of its directors; and, where the contract or transaction is between two corporations sharing a common director or directors.

Section 10.06.483 regulates the number, kind, and tenure of corporate officers. This section clarifies the status of corporate officers and provides machinery whereby persons dealing with such officers may insure that they gain the undisputed liability of the corporate entity. For the first time a duty of care is articulated for corporate officers, to assist both shareholders and courts in evaluating their performance.

Section 10.06.488 is a notable feature of the proposed code. For the first time, a carefully defined class of

traditionally abused creditors may proceed against corporate directors and officers if the corporation defaults on its obligations. This secondary liability is designed to make management responsible to creditors. It is important to note that this liability may be eliminated by written contract.

Section 10.06.490 continues with minor variation the existing law on the indemnification of directors, officers and employees on account of their role in the corporation.

ARTICLE 7: AMENDMENTS AND CHANGES.

Present law on amending the articles of incorporation is continued with few alterations. The process has been given flexibility by allowing either the board of the shareholders to initiate amendment. Unless a greater majority is required by the articles, an absolute majority of the shares may authorize an amendment instead of the 2/3 majority required by existing law. In addition to establishing "supermajority" requirements, the articles may provide that shares vote by "classes" in amending the articles.

Sections 10.06.522 and .526 adopt a recent Model Act innovation which permits amendment of the articles by judicial order in bankruptcy proceedings. This procedure eliminates potential federal tax liability.

ARTICLE 8: ORGANIC CHANGE.

Sections 10.06.530 and .542 define and set up uniform procedures for proposal, approval and implementation of three classical organic changes. In the event of either a merger or a consolidation, one or both of the participating conrporations formally ceases to exist. In the course of a share exchange, there is no formal supression of a constituent corporation but one of the entities becomes a wholly owned subsidiary of the other. In each instance, the scheme of the ACC is to place responsibility for framing a proposal with the boards of the participating corporations. Approval of the shareholders is then required and obtained under Sections 10.06.544 and .546.

Due to the inherently different interests involved, the merger of a subsidiary corporation into the parent is governed by a separate section.

The use of mergers, consolidations or share exchanges to "freeze out" minority share interests will violate a statutory presumption created by Section 10.06.542.

The sale, other than in the regular course of business, of all or subsantially all of the corporate assets is treated as another type of organic change by the ACC.

The organization and substance of the provisions on the rights of shareholders who dissent from an organic change and who wish to have the corporation buy out their interest

have been adopted from the latest version of the Model Act.

ARTICLE 9: DISSOLUTION.

Dissolution is to a corporate entity what death is to a natural person. As with the provisions respecting articles bylaws, amendments, and organic change, the protection of shareholders and corporate creditors is addressed in the ACC sections governing dissolution.

Article 9 distinguishes between two types of dissolution. is the key, the dissolution is said to be "voluntary." If the life of the corporation is to be taken as a consequence of gross abuse of a minority or because of persistent and serious flaunting of the state's regulation, then corporate termination is "involuntary."

Voluntary dissolution has been removed from the ambit of the board; it now rests entirely with the shareholders. A two-thirds majority is still required to make an election to dissolve. A revocation of the election is permitted if made prior to the commencement of winding up proceedings. Section 10.06.618 continues the policy of current law which allows the corporation to petition for judicial supervision of the winding up; this option has been expanded by permitting shareholders and creditors to petition for such supervision as well.

In addition to being the ultimate sanction against the

gross oppression or abuse of minority interests and as a release in the event of deadlock at the shareholder or director level, involuntary dissolution may be sought by the commissioner as a means of enforcing compliance with a variety of reporting and fee payment requirements, or to protect the state against gross abuse of corporate powers.

An innovation in the law regarding shareholders' suits for involuntary dissolution is Section 10.06.638's provision for a judicially supervised purchase of the plaintiffs' shares by shareholders desiring to preserve the corporation. Concern for the fate of a corporation which may be an otherwise viable employer and competitor in the marketplace is reflected in Section 10.06.640's machinery for appointment of a provisional director to resolve deadlock at the board level.

In the wake of any disslution the winding up process follows the presumption that a more advantageous disposition of the corporate assets can be accomplished by the existing management (officers and directors) than by the "liquidating receiver" assigned this task under current law. This presumption is subject to judicial alteration in appropriate cases. Receivers may be appointed even prior to winding up under Section 10.06.643 if the corporate assets are in danger of being wasted.

The powers of the court in a dissolution and the

authority and duties of the board during winding up are specified in detail. A system for settling corporate obligations in one court proceeding provides for judicial economy. Further provisions govern recovery of improper distributions to shareholders and the continued existence of the dissolved corporation for purposes of proceedings and actions not terminated prior to issuance of the certificate of dissolution.

ARTICLE 10: FOREIGN CORPORATIONS.

The most important alteration in the treatment of corporations organized under the laws of another state which seek to do business in Alaska is the imposition of many of the same standards of fairness and disclosure which apply to domestic corporations. A foreign corporation doing business in Alaska must register with the commissioner; notify him of changes in its name, purposes, or articles; and formally withdraw upon terminating business in the state. Each foreign corporation must maintain in Alaska a registered agent for service of process and a registered office. Abuse of these requirements will result in revocation of the "certificate of authority" to transact business in Alaska.

ARTICLE 11: REPORTS, FEES, AND PENALTIES.

The provisions on reporting, fees, and relations with

the commissioner in Article 11 reflect the legislature's comprehensive amendment of the ABCA in 1980.

TRANSITION PROVISIONS.

The adoption of major substantive changes in corporate law requires provisions to insure a non-disruptive transition. This is accomplished by establishing an effective date which draws the line between the applicability of prior law and that of the ACC. See, *Sec. 3.



Effect of amendments. — The first, second, fourth, sixth and seventh 1980 amendments all substituted "Except as otherwise provided in this title" for "All" at the beginning of subsection (a).

The third and fifth 1980 amendments both substituted "Except as otherwise provided by statute" for "All" at the beginning of subsection (a).

The third and fifth 1980 amendments were superseded by the sixth and seventh 1980 amendments, and therefore, subsection (a) is set out as it appears in the later amendments.

Chapter 02. Miscellaneous Provisions.

Sec. 08.02.020. Limitation of liability for members of licensing boards.

Cross references. — As to constitutionality of ch. 102, SLA 1976, see notes to AS 09.55.536 and Alas. Const., art. II, § 14.

Chapter 03. Termination, Continuation and Reestablishment of Regulatory Boards.

Section
10. Termination, continuation and reestablishment of regulatory boards
20. Procedures governing termination, transition and continuation

Sec. 08.03.010. Termination, continuation and reestablishment of regulatory boards. (a) Boards listed in this subsection have a termination date of June 30, 1979:

(1) Repealed by § 3 ch 36 SLA 1980.
(2) Repealed by § 3 ch 40 SLA 1980.
(3) Repealed by § 3 ch 87 SLA 1980.
(4) Repealed by § 3 ch 74 SLA 1979.
(5) Repealed by § 3 ch 38 SLA 1980.
(6) Repealed by § 3 ch 37 SLA 1980.
(7) Repealed by § 3 ch 38 SLA 1980.
(8) Repealed by § 3 ch 41 SLA 1980.
(9) Repealed by § 3 ch 67 SLA 1980.
(10) Repealed by § 2 ch 43 SLA 1980.
(11) Repealed by § 3 ch 42 SLA 1980.

(b) Boards listed in this subsection have a termination date of June 30, 1980:

(1) Repealed by § 15 ch 82 SLA 1980.
(2) Repealed by § 5 ch 159 SLA 1980.
(3) Collection Agency Board (AS 08.24.011);
(4) Repealed by § 5 ch 159 SLA 1980.
(5) Repealed by § 11 ch 71 SLA 1980.
(6) Repealed by § 7 ch 72 SLA 1980.
(7) Repealed by § 2 ch 53 SLA 1981.
(8) Repealed by § 8 ch 143 SLA 1980.

(9) Repealed by § 42 ch 167 SLA 1980.

(10) Repealed by § 2 ch 153 SLA 1980.

(11) Repealed by § 13 ch 52 SLA 1981.

(c) The following boards have the termination date provided by this subsection:

(1) Board of Nursing (AS 08.68.010) — June 30, 1983.

(2) Board of Chiropractic Examiners (AS 08.20.010) — June 30, 1984.

(3) Board of Examiners in Optometry (AS 08.72.010) — June 30, 1984.

(4) Board of Pharmacy (AS 08.80.010) — June 30, 1984.

(5) Board of Dispensing Opticians (AS 08.71.010) — June 30, 1985.

(6) Board of Dental Examiners (AS 08.36.010) — June 30, 1982.

(7) Board of Veterinary Examiners (AS 08.98.010) — June 30, 1985.

(8) State Physical Therapy Board (AS 08.84.010) — June 30, 1986.

(9) Board of Nursing Home Administrators (AS 08.70.010) — June 30, 1986.

(10) Board of Psychologist and Psychological Associate Examiners (AS 08.86.010) — June 30, 1982.

(11) State Medical Board (AS 08.64.010) — June 30, 1983.

(12) Board of Marine Pilots (AS 08.62.010) — June 30, 1983.

(13) Board of Welding Examiners (AS 08.99.010) — June 30, 1981.

(14) Board of Electrical Examiners (AS 08.40.010) — June 30, 1982.

(15) State Board of Registration for Architects, Engineers, and Land Surveyors (AS 08.48.011) — June 30, 1984.

(16) Board of Barbers and Hairdressers (AS 08.13.010) — June 30, 1984.

(17) Board of Public Accountancy (AS 08.04.010) — June 30, 1984.

(18) Real Estate Commission (AS 08.88.011) — June 30, 1982.

(19) Board of Governors of the Alaska Bar Association (AS 08.08.040) — June 30, 1985.

(20) Guide Licensing and Control Board (AS 08.54.010) — June 30, 1982.

(d) Repealed by § 3 ch 74 SLA 1979.

(e) Repealed by § 3 ch 74 SLA 1979. (§ 2 ch 149 SLA 1977; am §§ 1, 3 ch 74 SLA 1979; am §§ 1, 5 ch 36 SLA 1980; am §§ 1, 3 ch 37 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; and §§ 1, 3 ch 39 SLA 1980; am §§ 1, 3 ch 40 SLA 1980; am §§ 1, 3 ch 41 SLA 1980; am §§ 1, 3 ch 42 SLA 1980; am §§ 1, 2 ch 43 SLA 1980; am §§ 1, 3 ch 67 SLA 1980; am §§ 10, 11 ch 71 SLA 1980; am §§ 6, 7 ch 72 SLA 1980; am §§ 2, 15 ch 82 SLA 1980; am §§ 1, 3 ch 38 SLA 1980; am §§ 1, 3 ch 39 SLA 1980; am §§ 1, 2 ch 153 SLA 1980; am §§ 2, 5 ch 159 SLA 1980; am §§ 41, 42 ch 167 SLA 1980; am §§ 1, 13 ch 52 SLA 1981; am §§ 1, 2 ch 53 SLA 1981)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. SB 874 "An Act continuing the existence
Title of the Board of Electrical Examiners; and providing for an effective date."
Requested by Senate Labor & Commerce Committee Date 3-25-82

II. FISCAL DETAIL
Agency Affected Department of Commerce & Economic Development
Program Category Affected Public Protection
BRU, Program, Or Subprogram(s) Affected Regulation & Licensing of Professions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		0				
PART TIME						
TEMPORARY						

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

The Board of Electrical Examiners has been funded in the budget request for FY'83.

IV. DATE April 2, 1982 PREPARED BY Marjorie Odland
AGENCY Division of Occupational Licensing
PHONE 465-2535

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

33-001 (Rev. 12/81)

SB

883

ALASKA CONSUMER ADVOCACY PROGRAM

P.O. Box 1093 Anchorage, Alaska 99510 272-6355

May 2, 1982

Senator Bob Mulcahy
Chairman - Senate Labor and Commerce Committee
And Members of the Senate Labor and Commerce Committee

Enclosed you will find a packet of consumer letters and copies of two motions filed by ACAP with the Alaska Public Utilities Commission, related to an existing APUC policy which requires intervenors petitioning to intervene in APUC proceedings to commit to assuming a share of hearing costs, before intervention is granted. The APUC is proposing to adopt a rule on this issue.

ACAP will be forwarding a letter of explanation of this issue Monday, May 3, 1982 to you and members of your committee, but in responding to a request by the sponsor of SB 883, which is currently assigned to your committee, wanted you to receive background information as soon as possible.

Sandy Richards
Director

A Project of the Alaska Public Interest Research Group

To: Senator Patrick Rodey

From: Sandy Richards
A.C.A.P.

April 22, 1982

To the Alaska Public Utilities Commissioners:

We are writing to you about the allocation of APUC hearing costs to ACAP (U-81-32 order #5, U-81-48 order #11). As you know, ACAP intervened in the recent GVEA rate case on the behalf of the Fairbanks Consumer Advisory Committee (FCAC). We chose to become involved in the rate hearing because we felt that the GVEA management's proposals were poorly or improperly constructed and did not reflect current changes in costs or the best interests of the GVEA membership. The information that we were able to present, including GVEA management practice, a GVEA membership use and interest profile, allocation of fuel costs, and an alternative rate design, we believe had a positive and important impact on the outcome of the hearing. We were fortunate to have the assistance and to be able to draw upon the resource of ACAP in addition to the many volunteer hours worked by our own membership.

We believe that any consumer or consumer group who can bring pertinant questions and factual data that may add significantly to the overall quality and information in a APUC hearing should be able to do so as an intervenor. As a community based organization we have been able to tap many volun-- teer resources within our community. Our work in the most recent GVEA case would have been severely handicapped without the volunteer effort and support of many people. As such we believe that it is possible for the FCAC to be capable of intervening in APUC hearing when appropriate even without the assistance of ACAP or a similar agency.

Furthermore, we believe that the APUC has the resposibility to maximize consumer and consumer group input. Commission staff because of their close utility connections and responsibilities to the Commissioners are an inadequate vehicle for sonsumer representation.

We feel that the assessment of hearing costs to ACAP in the GVEA and MEA cases sets a most dangerous precedent, which would in effect eliminate or severely restrict consumer group input in future APUC hearings. While we as a volunteer group could generate the support to present material to the Commission, it would be nearly impossible to raise funds to cover hearing costs. The probability that with each issue raised the over all costs and

"our share" of the hearing costs would increase could restrict our ability to raise important issues.

We urge you to avoid setting this precedent and to not assess any hearing costs on ACAP.

Yours truly,

Karen E. Eddy

Karen E. Eddy
FCAC Chairman

April 22, 198?

To the Alaska Public Utilities Commissioners:

We are writing to you concerning the rule changes proposed in docket number U-79-81. As you know, the proposed rule change would require that any party who petitioned to become an intervenor in an APUC hearing would be required to indicate a willingness to assume a portion of the hearing costs.

As a community based consumer group, we believe that we have and can continue to give valuable input as an intervenor in APUC hearings. Much of our ability to do so is based on volunteer work and support from our membership. Should the Commission adopt this rule we believe that it would virtually eliminate consumer group input as intervenors in any APUC hearing. While we can draw upon volunteer resources to develop our material and collect information, it would be most difficult to raise funds to pay for Commission hearing costs. The probability that each issue we raise in a hearing could increase our "share" of the costs would be most constraining.

The utilities involved in hearings obviously cannot represent an independent consumer view in addition to their own proposal. Commission staff, with their resposibilities to the Commissioners and close working relationships with utility staff, is also incapable of adequate consumer representation. For the Commission to have all pertinant information on which to base a decision balancing everyone's interests, it is important that consumers and consumer groups be able to participate fully in hearings. The effect of this rule would be to eliminate that possibility, except as casual public witnesses.

We oppose this rule change and urge that the Commission hold a public hearing on the proposed change so that all interested parties may give testimony on the proposed change.

Yours truly,

Karen E. Eddy

Karen E. Eddy
Fairbanks Consumer
Advisory Committee

April 22, 1982

Carolyn S. Guess, Chairman
Alaska Public Utilities Commission
1100 MacKay Building
338 Denali Street
Anchorage, AK 99501

Dear Chairman Guess:

We are very concerned about the direction the APUC is headed in relation to public interest. Recently we received copies of an order assessing costs of the MEA and GVEA rate hearings to the Alaska Consumer Advocacy Program (ACAP). We have also received a copy of the proposed regulation which would require that an intervenor must agree to pay a portion of rate hearing costs.

The Public Utilities Regulatory Policies Act (PURPA) gives the public the right to intervene in a rate hearing. Assessing the public for participation as an intervenor defeats the purpose of PURPA, which namely is to give the public a greater opportunity to participate. Public participation can be extremely beneficial for all parties concerned.

Ultimately the public bears the costs of APUC hearings, whether through taxation or utility rates. However, if an intervenor is assessed the general public may not bear the cost but rather a small group of consumers could ultimately assume the burden whereas the entire general public may benefit from the intervention.

Our committee, the Mat-Su Valley Consumer Advisory Committee, could serve as an example of our point. Our committee is strictly a volunteer organization. We do not receive governmental funds, nor do we assess dues or membership fees. Any expenses incurred are absorbed by a small group of individuals. If ACAP had not existed during MEA's last rate case we could not have participated to the extent we desired. If the APUC were to adopt the proposed regulation our committee alone could not participate as an intervenor in any future rate hearings.

To adopt a blanket regulation requiring all intervenors to agree to cost assessment would definitely limit public participation. Such a regulation would discriminate against a large segment of the public since only those who have the financial resources to absorb the cost, the amount of which cannot be predetermined, would be able to apply the rights granted the public through adoption of PURPA. If the APUC chooses to allocate hearing costs to public intervenors possibly judicial proceedings will be the only avenue left open to the potential pubic intervenor.

We strongly urge the Commission to reconsider its position regarding assessing hearing costs to public intervenors.

Sincerely,

Wm. Harvey Bowers

Sandra L. Bowers

Wm. Harvey Bowers

Sandra L. Bowers

cc: Commissioners Weatherly, Knowles, Hall and Snowden
Representative Pat Carney

APRIL 22, 1982
BOX 2069
KODIAK, AK. 99615

APUC
1100 MACKAY BLDG.
338 DENALI STREET
ANCHORAGE, AK. 99501

APR 26 REC'D

DEAR COMMISSIONERS:

I AM THE CHAIRMAN OF THE CONSUMER ADVOCACY COMMITTEE HERE IN KODIAK AND AM WRITING FOR ALL OUR MEMBERS OF THE COMMITTEE.

WE ARE AGAINST ANY AND ALL COSTS BEING ASSESSED ACAP FOR BEING AN INTERVENOR ON BEHALF OF WE THE CONSUMERS WHEN APUC IS ASKED TO HOLD A PUBLIC HEARING ANYWHERE IN THE STATE OF ALASKA WHEN SOME UTILITY IS TRYING TO RIP US OFF AND NOT GIVE ADEQUATE SERVICE. WE ARE ALSO AGAINST ANY OTHER CONSUMER INTEREST INTERVENORS BEING ASSESSED COSTS OUR STATE PAYS YOU PEOPLE HIGH SALARIES TO DO THIS AND YOU COULD CUT DOWN ON SOME OFFICE HELP IN YOUR BUDGET AND ALLOW THOSE MONIES TO GO FOR PREPARATION OF TRANSCRIPTS AS WELL AS TRAVEL FOR COMMISSIONERS AND STAFF. WE KNOW WHAT HIGH SALARIES THE ATTORNEYS ON THE APUC GET SO YOU COULD PAY SOME COSTS YOURSELVES OR TAKE A CUT IN PAY AND PUT THE OTHER MONIES IN A TRAVEL FUND AND PUBLIC HEARING FUND. WE KNOW THE STATE GIVES YOU A GOOD SIZED BUDGET SO A CUT IN PAY WOULD BE IN ORDER.

WE WANT SENATE BILL 883: SECTION 1. AS 42.05.651 TO BE PASSED AS WE FEEL THIS IS YOUR RESPONSIBILITY AND NO ONE ELSES.

OUR CAC GROUP IN KODIAK WERE VERY THANKFUL FOR THE ACAP PEOPLE FOR THEIR HELP WITH US IN THE GLACIER STATE TELEPHONE COMPANY'S RATE INCREASES AND WE PLAN TO USE THEM AGAIN AS WE HEARD KODIAK ELECTRIC ASSOCIATION IS GOING TO ASK FOR A RATE INCREASE PRETTY SOON. THE ACAP PEOPLE DO A THOROUGH JOB ON INVESTIGATING THINGS WHERE THE APUC KIND OF SLOUGHS US OFF.

AGAIN WE ARE AGAINST ANY MONIES BEING ASSESSED THE ACAP BOARD AND ARE LETTING OUR SENATOR KNOW TOO.

THANK YOU FOR YOUR CONSIDERATION IN THIS MATTER.

SINCERELY,

Lorna Lee Arndt

CHAIRMAN KODIAK
CAC

Ms. Kay Paddon
Box 41143
Anchorage, Alaska 99509

April 23, 1982

Mr. John Farleigh
Executive Director
Alaska Public Utilities Commission
1100 MacKay Building
338 Denali Street
Anchorage, Alaska 99501

Re: Proposed Rule to Require Consumers Agree to Accept Hearing Costs Before Hearings

Dear Mr. Farleigh:

I am Kay Paddon, Chairman of the Anchorage Consumer Advisory Committee, which operates unfunded in the public interest. I am writing on behalf of this group to express my concern reguarding this proposed rule. If such a ruling is to be ratified it would work a hardship on the ACAP and all consumer members of the public who appear to testify at Utility Hearings in defense of their rights. I cannot but see this as a move by the Commission to exclude the public and individual testimony from all hearings.

Certainly any information brought by testimony from the public to a Hearing is useful to the Commission in their deliberation on cases now or in the future. Since consumers are the reason for the existence of a State funded Commission before their voices can be heard. On the basis of one sided testimony--that of the utility company--it is hard to see how any impartial judgement can be made or the ends of justice served.

If the APUC is thus predisposed in favor of the Utility Companies it would be interesting to know what the word "Public" in its title might signify. "Public", according to my dictionary, is "of, belonging to or concerning the people as a whole". If my understanding of this proposed rule is incorrect, I would welcome clarification from you and some further basic information.

As chairman of the Alaska Consumer Advisory Committee, I request a full Public Hearing on this proposed rule, before adoption.

Sincerely,

Kay Paddon

Kay Paddon

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A.P.U.C.
APR 22 4 17 PM '82

STATE OF ALASKA

THE ALASKA PUBLIC UTILITY COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman
Marvin R. Weatherly
Susan M. Knowles
Stuart C. Hall
Diana E. Snowden

In the Matter of Corrective Technical and Miscellaneous Changes.) U-79-81

STATEMENT OF VIEWS AND REQUEST FOR HEARING

On March 31, 1982, the Alaska Public Utilities Commission (Commission) noticed additional proposed changes to its regulations in the above docket opened last fall to process a number of proposed changes to their regulations.

Among those additional proposed changes, is listed an addition to the Intervention section, 3 AAC 48.110(b)(8), which would require that a petition to intervene in Commission proceedings must state in the petition:

> The willingness of the petitioner to accept an equitable portion of the costs allocable under AS 42.05.651 or AS 42.06.710 and 3 AAC 48.157.

The Commission's notice accompanying this proposed rule change states that:

> ...the Commission has no present plans to hold an additional* public hearing on this subject prior to consideration of the adoption of these proposed regulations unless sufficient public interest warrants.
>
> The Alaska Public Utilities Commission, upon its own motion or at the instance of any interested person, may adopt the proposals as permanent regulations substantially as described above without further notice or may decide to take no action on them.

*ACAP recognizes that public hearings have been held in this docket on other proposed rule changes, but not on this particular proposed change.

The Alaska Consumer Advocacy Program (ACAP) objects to the proposed change to the Intervention section of the regulations, believing that a consumer or consumer group wishing to intervene in a utility case pending

before the Commission, upon reading the proposed rule, would most likely forego intervention, in the face of an undefined amount of costs that could conceivably range from a few hundred to several thousand dollars.

ACAP believes, after a preliminary survey of Consumer Advisory Committee members around the State and in Anchorage, that the adoption of this proposed rule would have a devastating effect on future consumer decisions to intervene in utility cases--and thus on consumer access to the utility case decision-making process.

After only a cursory investigation of case law and Public Utilities Commission practice in the rest of the United States, ACAP has learned that the practice of charging consumer intervenors hearing costs is being replaced by the practice of awarding consumer intervenors costs to reimburse them for their expenses of participation in utility cases as parties.

ACAP believes this proposed rule is of such significant moment to utility consumers, that a public hearing on this proposed change is definitely warranted, and hereby requests a public hearing be held prior to adoption of the proposed rule. ACAP also believes that this issue rises to the level of a serious public policy question and urges the Commission to separately notice this issue to the community and appropriate officials.

ACAP recognizes the Commission's statutory authority to allocate hearings costs under AS 42.05.651. We further recognize that phrases in that statute such as "just under the circumstances", "ability to pay", and "mitigating circumstances" all give the Commission discretion in finally allocating a small or no portion of hearing costs, to consumer intervenors once a proceeding is over. However, that is precisely ACAP's objection to this new proposed change. Up front, at the beginning of a case, in the initial petition to intervene, a consumer or consumer group has to commit blindly to a share of undetermined costs and rely on any future-constituted Commission's discretion "after completion of a hearing or investigation" (AS 42.05.651), so long as this rule might be in effect.

ACAP, last of all, believes that the broad discretion granted under the Commission's statutory authority to allocate costs could operate to allow adoption of a regulation amendment clearly stating that individual consumers, or consumer groups, shall not be allocated hearing costs.

ACAP therefore in summary:

1. Registers its objection to this proposed addition to Commission's regulations at 3 AAC 48.110(b)(8); and,

2. Requests separate notice of and hearing upon this proposed rule change.

DATED this 22nd day of April, 1982

Respectively submitted:

By: Sandra L. Richards

Sandra L. Richards
Director
ALASKA CONSUMER ADVOCACY PROGRAM

STATE OF ALASKA

THE ALASKA PUBLIC UTILITIES COMMISSION

Before Commissioners: Carolyn S. Guess, Chairman
Marvin R. Weatherly
Susan M. Knowles
Stuart C. Hall
Diana E. Snowden

In the Matter of filing of a Tariff Revision, Designated as TA28-13, by GOLDEN VALLEY ELECTRIC ASSOCIATION, INC., for and Rate Redesign	)	U-81-48
In the Matter of the Filing of a Tariff Revision, Designated as TA22-18, by MATANUSKA ELECTRIC ASSOCIATION, INC., for an Interim and Permanent Rate Increase and Rate Redesing	)	U-81-32

MOTION TO ENLARGE TIME

On March 12, 1982 the Alaska Consumer Advocacy Program (ACAP) filed a Petition for Reconsideration of Order No. 5 in Docket U-81-32 and Order No. 11 in Docket U-81-48, in which the Commission allocated hearing costs to ACAP of $818.15 and $5,134.81, respectively. In its petition, ACAP requested a hearing pursuant to AS 4.05.651, in addition to requesting reconsideration of allocated costs.

On March 24, 1982, the Alaska Public Utilities Commission (the Commission) granted a hearing:

> "In view of the public policy questions raised in ACAP's petition...
>
> and, "...the Commission believes that it would be in the public interest for a public hearing to consider the allocation of costs in these proceedings." (Page 2, U-81-32 (6); U-81-48(12).

The Commission also stayed payment of hearing costs by ACAP, pending completion of its reconsideration of the issues in this proceeding. In its "Order Establishing Date For Public Hearing on Petition for Reconsideration of Orders Allocating Costs to Intervenor Alaska Consumer Advocacy Program", the Commission further established a briefing schedule calling for a supplemental brief by ACAP due not later than 4:00 pm, April 9, 1982. The Commission further established April 20 and 30, 1982 as due dates for supplemental argument by MEA, GVEA or staff and a final reply brief by ACAP, respectively. The Commission further ordered May 6, 1982, as the date for public hearing on the issue of allocated costs.

ALASKA CONSUMER ADVOCACY PROGRAM
P.O. Box 1093
Anchorage, AK 99510

On April 2, 1982, the Commission, in its Order No. 11, U-81-52, established May 5 and 6, 1982 as the date for public hearings for the Chugach Electric Association (Chugach) request for an Interim and Permanent Rate Increase, as well as establishing a May 10, 1982, beginning date for presentation of direct cases regarding the Chugach permanent rate increase request. (It is ACAP's understanding that 8 days have been calendared by the Commission for the Chugach rate case, taking us to May 18, 1982.) ACAP as an intervenor in U-81-52 bears the responsibility of thorough preparation for those hearings scheduled in that docket.

However, ACAP also believes the Hearing Cost Allocation issue is a serious public policy question with potentially devasting effects on future consumer decisions to intervene in Commission utility decision-making proceedings. As a foundation issue to consumer participation, it requires full and precise review and briefing by all parties.

A coincident hearing schedule for both the Hearing Cost Allocation issue and the Chugach rate case inflicts a burdensome and conflicting work load and schedule on our consumer office. (It is now ACAP's understanding that the Commission also has a schedule conflict with the May 6 hearing date, pursuant to telephone conversation with Virginia Rusch, Esq., APUC staff counsel.)

In addition ACAP notes with serious concern and objection that, since filing our "Request for Hearing and Petition for Reconsideration of Orders Allocating Costs to Intervenor Alaska Consumer Advocacy Program (ACAP) on March 12, 1982, the Commission has on March 31, 1982, noticed in its "Additional Proposed Changes in the Regulations of the Alaska Public Utilities Commission" an addition to 3 AAC 48.110, entitled Intervention, which would require that a petitioner for intervention must state:

> " (b) (8) the willingness of the petitioner to accept an equitable portion of the costs allocable under AS 42.05.651 or AS 42.06.710 and 3 ACC 48.157.".

The Supreme Courts of some states have begun ruling in favor of awarding costs of intervention to consumer or public interest intervenors in a trend opposite this proposed regulation. (Consumer Lobby Against Monopolies v. PUC, 25 Cal 3d 891 (1980).) The notice accompanying this proposed change does not announce or contemplate a public hearing; invites comment through May 1, 1982; and , further announces that:

> "The Alaska Public Utilities Commission, upon its own motion or at the instance of any interested person, may adopt the proposals as permanent regulations substantially as described above without further notice or may decide to take no action on them."

While ACAP has a specific interest in seeing hearing costs for U-81-48 and U-81-32 either reduced or eliminated from the final orders in those proceedings, ACAP also has a deep concern that the rules and regulations of the Commission do not operate to in anyway foreclose consumer input to its decisions.

Accordingly, ACAP respectfully moves the Commission to re-set the hearing date for the Hearing Cost Allocation issue to some date convenient to the Commission, beginning with the week of May 24, 1982, and;
ACAP further moves the Commission to adopt an ammended briefing schedule appropriate to that later hearing date, and;
ACAP further moves the Commission to consider delaying adoption of the proposed change in its regulations to 3 AAC 48.110 (b) and consolidating the issues of costs specifically allocated to ACAP in U-81-48 and U-81-32 with consideration of the adoption of proposed paragraph (8) to be added to 3 AAC 48.110 (b), or, in the alternative, that the Commission delay adoption of the proposed change in Intervenor regulation, pending the results of the hearing on costs allocated to ACAP in U-81-48 and U-81-32.

DATED this 9th day of April, 1982.

ALASKA CONSUMER ADVOCACY PROGRAM

By: Sandra L. Richards

Sandra L. Richards
Director

ALASKA CONSUMER ADVOCACY PROGRAM
P. O. Box 1093
Anchorage, AK 99510

Am Jur. references. — 18 Am. Jur., Electricity, § 34; 43 Am. Jur., Public Utilities and Services, §§ 194, 195, 205.

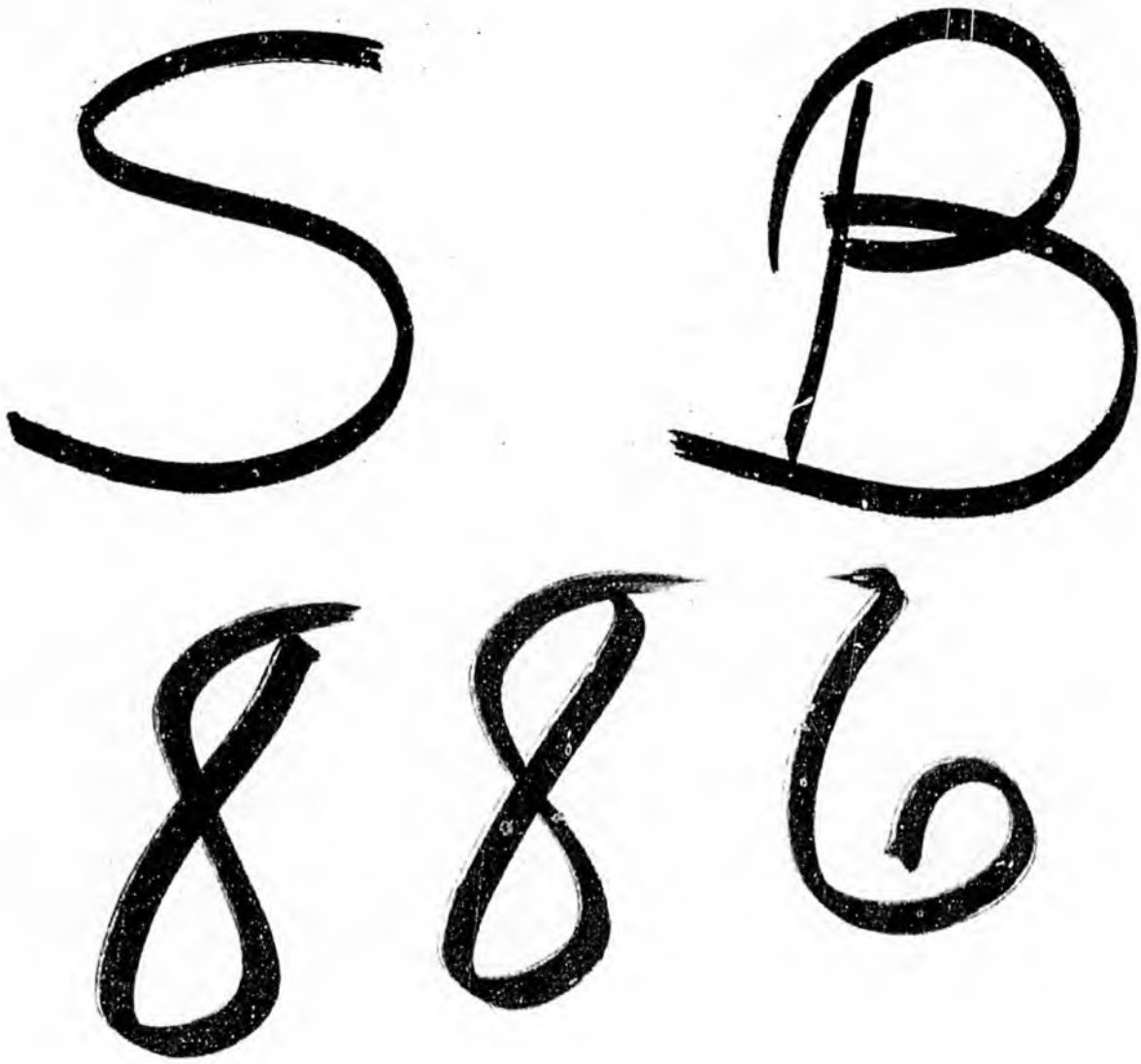
Sec. 42.05.651. Expenses of investigation or hearing. After completion of a hearing or investigation held under this chapter, the commission shall allocate the costs of the hearing or investigation among the parties, including the commission, as is just under the circumstances. In allocating costs, the commission may consider the results, ability to pay, evidence of good faith, other relevant factors and mitigating circumstances. The costs allocated may include the costs of any time devoted to the investigation or hearing by hired consultants, whether or not the consultants appear as witnesses or participants. The costs allocated may also include any out-of-pocket expenses incurred by the commission in the particular proceeding. The commission shall provide an opportunity for any person objecting to an allocation to be heard before the allocation becomes final. (§ 6 ch 113 SLA 1970)

Sec. 42.05.661. Application fees. With each application relating to a certificate the applicant shall pay the commission a fee of $50 which shall be deposited in the general fund of the state. (§ 6 ch 113 SLA 1970)

Sec. 42.05.671. Public disclosure of information. Facts and information in the possession of the commission are public, and reports, files, books, accounts and papers of every nature in its possession except records which by regulation are designated to be of a nonpublic or privileged nature are open to public inspection at reasonable times. However, a person may make written objections to the public disclosure of information contained in an application, report or document filed under the provisions of this chapter or of information obtained by the commission under the provisions of this chapter, stating the grounds for the objection. When an objection is made, the commission shall order the information withheld from public disclosure if the information would adversely affect the interest of that person and is not required in the interest of the public. (§ 6 ch 113 SLA 1970)

Sec. 42.05.681. Validity of certain certificates. No certificate issued before July 29, 1968, to a public utility for the generation, transmission, or distribution of electric energy and power, or for the furnishing of telecommunications may be considered as terminated, or voided, for the sole reason that the utility did not or would not produce an annual gross income in excess of $25,000. (§ 6 ch 113 SLA 1970)

Sec. 42.05.691. Utility classes. The commission may by regulation provide for the classification of public utilities based upon differences in annual revenue, assets, nature of ownership and other appropriate distinctions and as between these classifications, by regulation, provide for different reporting, accounting and other regulatory requirements. (§ 6 ch 113 SLA 1970)


SB
886

EXAMPLE FOR FIGURING FWW SALARY:

Week 1 - 115 hours worked and $750 bonus.

Week 2 - 120 hours worked and $875 bonus.

Weekly guarantee - $290/week (hourly minimum - $5.80)

WEEK 1

$290 (guarantee) plus $750 (bonus) = $1040 divided by 115 hours = $9.04 hourly rate.

115 hours worked minus 40 (regular hours in a workweek) = 75 (overtime hours)

75 divided by 2 = 37.5 (extra hours paid) + 115 hours worked = 152.5 payable hours.

152.5 (payable hours) X $9.04 = $1378.60 TOTAL FOR FIRST WEEK.

WEEK 2

$290 (guarantee) plus $875 (bonus) = $1165 divided by 120 hours = $9.71 hourly rate.

120 hours worked minus 40 (regular hours in a workweek) = 80 (overtime hours)

80 divided by 2 = 40 (extra hours paid) + 120 hours worked = 160 payable hours.

160 (payable hours) X $9.71 = $1553.60 TOTAL FOR SECOND WEEK

TOTAL PAYCHECK FOR TWO WEEKS WORKED ON THE NORTH SLOPE WOULD BE $2932.20 — all income below

NOTE: HOURLY RATE CAN BE HIGHER THAN BUT NEVER LOWER THAN HIS $5.80 MINIMUM. IN OTHER WORDS, IF HIS HOURS WORKED EQUALED LESS THAN 40, HIS HOURLY RATE WOULD FALL NO LOWER THAN $5.80.

ADDITIONAL INCOME

$500 per month isolated location (approx)
900 per month Alaskan Allowance
$1400 TOTAL divided by 2 = $700

TWO-WEEK PAYCHECK FOR NORTH SLOPE	- $2932.20
TWO-WEEK ADDITIONAL INCOME	- 700.00
	$3632.20

5. Not allowing the FWW plan to be used increases the cost of services to many industries including the oil industry in this State. This cost will be passed directly onto the customer and will not result in increased pay for the worker. For example, if an oil company wishes to have service performed at a rig in the Beaufort Sea and the employees are called out to do a certain job no one knows exactly how long it is going to take. If the oil service company has to charge the customer more to pay standby time to the employee, then the oil company will have to pass that increase onto the customer at the gas pump. Under the FWW plan, service companies routinely allow up to 96 hours free standby time if their employees have to wait out at the job site. Without the FWW plan, such free time would be cut to only 12 or 24 hours. The employees who go out to an oil rig and find themselves with an unexpected delay under the FWW plan are paid up to 22 hours a day even though they may be sleeping or off duty. Without the FWW plan they would simply be paid their straight 8 hours a day and not paid for sleeping or off duty time.

6. 29 U.S.C. § 203 (Fair Labor Standards Act) in Federal law allows the flexible work week and below payment plans. Under n. 63 of 29 U.S.C. § 207 numerous cases and examples are given.

ARGUMENTS

Section (d)(1) of 8 AAC 15.100 should be annulled in order to allow the use of a flexitime work schedule in Alaska for the following reasons:

1. This will bring Alaska law into conformance with the Federal Law. 29 C.F.R. 778.114 allows the fluctuating work week payment method to be used as long as it does not result in paying less than the minimum wage to any employee.

2. By allowing employees to have a certain guaranteed amount of pay each month, it will make it easier for the employees to budget their income on a regular basis and to make applications for house loans, car loans and loans for other items which require a basic nonfluctuating income.

3. The fluctuating work week (FWW) avoids having an employee face the possibility of varying income and the difficulties in budgeting his own income and expenses.

4. For those employees who work a one week on one week off or similar schedule, the FWW plan assures him that he will be paid a certain amount of dollars in the event he is sick for a week and not covered by workmen's compensation. Otherwise the employee might be on R&R one week, get sick during his normal work week, be on R&R the next week and be faced with a three week period zero income if he is not on the FWW plan.

Flex-time law assures 3-day weekends

by Susan Andrews
Times Writer

The state's new flexible work week law promises dreamy three-day weekends for employees but nightmares for personnel managers who have to juggle the schedules.

The law, signed by Gov. Jay Hammond last week, allows employees to work up 10 hours a day, four days a week without overtime pay. Any hours worked over 10 hours a day or 40 hours a week would require overtime.

The voluntary agreements between employees and employers must be filed with the state Department of Labor, which must then issue a certificate.

At least two additional state employees will be needed to handle the paperwork, according to Department of Labor estimates.

Until the new law was passed, the state required overtime pay for any time over eight hours in a single day. Federal law requires overtime pay for any time over 40 hours in a week but doesn't limit the number of hours that can be worked in one day, according to Dale Cheek of the state Department of Labor.

The new law takes effect Aug. 10. In the meantime, the Department of Labor must draft regulations, a process that requires public hearings, and that could take six months, Cheek said.

That means it will be at least November before anyone can make application to the state for a flexible work plan certificate.

The new law, co-sponsored by Reps. Sam Cotten, D-Eagle River, and Joe Hayes, R-Anchorage, was introduced at the request of the airline industry. The seafood industry and banks also had requested it, according to Cotten's office.

The law is aimed at the private sector, either through voluntary agreements or collective bargaining agreements.

The Alaska Railroad tried the four-day, 10-hours-a-day work week for five months but has decided to drop the plan. There were complaints that service was faltering on Mondays and Fridays when crews were at half strength. The plan affected 200 shop and railroad yard employees in Anchorage.

Murray, Bradley and Lockey, an advertising firm here, experimented with a four-day work week eight or nine years ago but it lasted only six months.

Partner Ron Bradley said the firm at that time had a small staff and simply closed the office on Mondays. The plan might work now, he said, with a staff that's large enough to have two shifts, with some people off on Fridays and others on Mondays.

Guy Russo of Western Airlines said the company's union contract provides for flexible work plans and those have been in effect in California. Alaska law up to now has prohibited such plans here and the airline employees asked for the change in the law. It may mean Western will have to hire extra people to provide seven-day-a-week coverage, he said.

Retail clerks would like a flexible work arrangement, said Larry Buchholz, business agent for the clerks union.

But for most retail clerks, the shortened work week wouldn't mean three days off in a row. "We're still trying to get two consecutive days off," Buchholz said.

Construction workers probably wouldn't want that arrangement, however, he said, because of their short work season. They want all the overtime they can get.

Bett. Stevens, personnel manager for Nordstrom, and Becky Boyer, personnel manager for Welch's and Snooty Fox, both said four 10-hour days would offer advantages for businesses because they would have a continuous staff into the evening hours. But it could work a hardship on some employees.

"That's a long time to be on your feet," Miss Stevens said.

It would present some new problems to work out, too, she pointed out, such as how many breaks and how long the lunch hours would be.

The plan hasn't been proposed at the Anchorage store.

The U.S. Environmental Protection Agency in Anchorage has been working under a variation of flexible time for about six months.

Jim Sweeney, director of the Anchorage operations office, said the plan is great for most employees but hard for supervisors, who have no one to replace them on their day off.

The EPA staff works mostly nine-hour days, with a three-day weekend every other week. They choose either Friday or Monday as their extra day off.

Ray Morris, who's in charge of oil spill cleanup operations for the EPA, finds less traffic and it's easier to find a parking place when you come in earlier in the morning.

Earl Kari, the EPA's authorized officer at federal gas line inspector's office in the Fifth Avenue Building, is the only one in his office working the flexible schedule.

8 AAC 15.050. DEDUCTIONS FROM AN EMPLOYEE'S WAGES. Repealed. (12/9/78, Reg. 68)

8 AAC 15.060. PLACE OF EMPLOYMENT FOR PURPOSES OF RECORD KEEPING. Repealed. (12/9/78, Reg. 68)

8 AAC 15.070. DEFINITIONS OF MISCELLANEOUS TERMS USED IN AS 23.10.050 – 23.10.150. Repealed. (12/9/78, Reg. 68)

ARTICLE 2.
MINIMUM WAGES AND OVERTIME

Section
100. Payment for overtime
105. Minimum wage

8 AAC 15.100. PAYMENT FOR OVERTIME. (a) An employee's regular rate is the basis for computing overtime. The regular rate is an hourly rate figured on a weekly basis. Employees need not actually be hired at an hourly rate; they may be paid by piece-rate, salary, commission or any other basis agreeable to the employer and employee. However, the applicable compensation basis must be converted to an hourly rate when determining the regular rate for computing overtime compensation.

(b) The regular rate referred to in (a) is that fixed hourly amount determined from an employee's hourly wage, salary, commission, piece-rate or other basis of compensation that he is to be paid for all contract hours up to the daily or weekly maximum, established under AS 23.10.060, that he is regularly employed to work during a workweek.

(c) When computing an employee's hours for the purpose of determining overtime, the employer shall count all hours the employee worked during that week including periods of "on call" and "standby or waiting time" required for the convenience of the employer which were a necessary part of the employee's performance of his employment. However, if the employee is completely relieved from all duties for a certain period during which he may use the time effectively for his own purposes, then those periods need not be counted.

(d) The following are not acceptable methods of complying with the payment of overtime provisions of AS 23.10.060:

(1) guaranteed weekly pay for variable hours plan ("Belo" contracts) established under sec. 7(f) of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 207(f) as implemented in 29 C.F.R. 778.402 – 778.414);

(2) compensatory time off in place of payment for overtime; and

(3) flex-time or flexitime plans established under 29 C.F.R. 778.114 providing a fixed salary for fluctuating hours up to a predetermined maximum number of hours in a workweek. (Eff. 12/9/78, Reg. 68)

Authority: AS 23.10.060
AS 23.10.085

8 AAC 15.105. MINIMUM WAGE. As used in AS 23.10.065, "prevailing Federal Minimum Wage Law" means that rate established in Sec. 6(a)(1) of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. 206(a)(1)) as the minimum wage generally applicable to employees subject to that Act. (Eff. 12/9/78, Reg. 68)

Authority: AS 23.10.065
AS 23.10.085

ARTICLE 3.
EXEMPTIONS

Section
120. Minimum wage exemption for handicapped persons
125. Minimum wage exemption for student learners
130. Exemption for searching for placer or hard rock minerals
135. Exemption for individuals under 18 who are part-time employees
140. Determining the number of employees for purposes of AS 23.10.060(1)
145. Small mining operations

8 AAC 15.120. MINIMUM WAGE EXEMPTION FOR HANDICAPPED PERSONS. (a) An application to employ a person at less than the minimum wage established under AS 23.10.065 must be made either on a form provided by the department or by filing an

Introduced: 4/14/82
Referred: Labor & Commerce
and State Affairs

IN THE SENATE

BY THE LABOR AND COMMERCE COMMITTEE BY REQUEST

SENATE BILL NO. 886

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act retroactively authorizing certain methods for the payment of overtime; and providing for an effective date."

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

* Section 1. AS 23.10.060 is amended by adding a new subsection to read:

(b) Nothing in this section prevents the use of the following methods for the payment of overtime:

(1) a guaranteed weekly pay for variable hours plan established in accordance with 29 U.S.C. 207(f) and 29 C.F.R. 778.402 - 778.414 (Fair Labor Standards Act of 1938, as amended (52 Stat. 1060);

(2) a fluctuating workweek plan established in accordance with 29 U.S.C. 207(a) and 29 C.F.R. 778.114 (Fair Labor Standards Act of 1938, as amended (52 Stat. 1060).

* Sec. 2. AS 23.10.060(b) added by sec. 1 of this Act is retroactive to December 9, 1978, and extinguishes any penalty, forfeiture, or liability incurred or right accruing or accrued under 8 AAC 15.100(d)(1) and (3), adopted under AS 23.10.065 and 23.10.085 to prohibit the use of the overtime payment methods authorized by AS 23.10.060(b) added by sec. 1 of this Act.

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

(11) an individual under 18 years of age employed on a part-time basis not more than 30 hours in a week. (§ 2(1) ch 171 SLA 1959; am § 1 ch 2 SLA 1962; am § 1 ch 50 SLA 1972); am § 2 ch 124 SLA 1978)

Cross references. — As to gratuity for institutional work by prisoners, see § 33.30.225.

Effect of amendments. — The 1978 amendment added "including prisoners not on furlough detained or confined in prison facilities" to the end of paragraph (5).

NOTES TO DECISIONS

Employees covered by and exempt from Fair Labor Standards Act. — AS 23.10.050 — 23.10.150 apply to both employees covered by the Fair Labor Standards Act, 29 U.S.C. §§ 201-219, and those who are, because of insufficient connections to interstate commerce, exempt from the Fair Labor Standards Act. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Prisoners excluded from operation of chapter. — See McGinnis v. Stevens, Sup. Ct. Op. No. 1207 (File Nos. 2255, 2312), 543 P.2d 1221 (1975).

Applied in Alaska Int'l Indus., Inc. v. Musarra, Sup. Ct. Op. No. 1966 (File Nos. 3652, 3676), 602 P.2d 1240 (1979).

Cited in Dresser Indus., Inc. v. Alaska Dep't of Labor, Sup. Ct. Op. No. 2415 (File No. 5625), P.2d (1981).

Sec. 23.10.060. Payment for overtime. No employer who employs employees engaged in commerce, or other business, or in the production of goods or materials in Alaska may employ an employee not acting in a supervisory capacity, either male or female, for a workweek longer than 40 hours or for more than eight hours a day, except that if the employer finds it necessary to employ an employee in excess of 40 hours a week or eight hours a day, compensation for the overtime at the rate of one and one-half times the regular rate of pay shall be paid, and this provision is considered included in all contracts of employment. This section does not apply with respect to

(1) an employee employed by an employer employing less than four employees in the regular course of business, as regular course of business is defined by regulations of the commissioner;

(2) Repealed by § 38 ch 127 SLA 1974.

(3) Repealed by § 1 ch 243 SLA 1970.

(4) an employee employed in handling, packing storing, pasteurizing, drying, preparing in their raw or natural state, or canning agricultural or horticultural commodities for market, or in making cheese or butter or other dairy products;

(5) an employee of an employer engaged in small mining operations where not more than 12 employees are employed, if the employee is employed not in excess of 12 hours a day or 56 hours a week during a period or periods of not more than 14 workweeks in the aggregate in a calendar year during the mining season, as the season is defined by the commissioner;

(6) Repealed by § 1 ch 45 SLA 1972.

(7) an employee engaged in agriculture;

(8) an employee employed in connection with the publication of a weekly, semiweekly, or daily newspaper with a circulation of less than 1,000;

(9) a switchboard operator employed in a public telephone exchange which has fewer than 750 stations;

(10) an employee of an employer engaged in the business of operating taxicabs;

(11) an employee in an otherwise exempted employment or proprietor in a retail or service establishment engaged in handling telegraphic, telephone, or radio messages for the public under an agency or contract arrangement with a telegraph or communications company where the telegraph message or communications revenue of the agency does not exceed $500 a month;

(12) an employee employed as a seaman;

(13) an employee employed in planting or tending trees, cruising, or surveying, or bucking, or felling timber, or in preparing or transporting logs or other forestry products to the mill, processing plant, railroad, or other transportation terminal, if the number of employees employed by the employer in the forestry or lumbering operations does not exceed 12;

(14) an individual employed as an outside buyer of poultry, eggs, cream, or milk in their raw or natural state;

(15) casual employees as may be liberally defined by regulations of the commissioner;

(16) an employee of a nonprofit hospital;

(17) work performed by an employee under a flexible work hour plan if the plan is included as part of a collective bargaining agreement;

(18) work performed by an employee under a voluntary flexible work hour plan if

(A) the employee and the employer have signed a written agreement and the written agreement has been filed with the department; and

(B) the department has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime. (§ 3 ch 171 SLA 1959; am § 1 ch 3 SLA 1962; am § 1 ch 243 SLA 1970; am § 1 ch 45 SLA 1972; am § 33 ch 127 SLA 1974; am § 1 ch 31 SLA 1980)

Opinions of attorney general. — The Fair Labor Standards Act, 29 U.S.C. §§ 201-219 does not expressly preempt the AS 23.10.050 — 23.10.150 on the question of whether airline employees are excluded from the mandatory overtime directive of this section. April 15, 1980, Op. Att'y Gen.

In the case of pilots, flight crews, and other interstate air carrier employees whose activities are directly and substan-

(B) the Department of Labor has issued a certificate approving the plan which states the work is for 40 hours a week and not more than 10 hours a day; for work over 40 hours a week or 10 hours a day under a flexible work hour plan not included as part of a collective bargaining agreement, compensation at the rate of one and one-half times the regular rate of pay shall be paid for the overtime.
(am § 33 ch 127 SLA 1974; am § 1 ch 31 SLA 1980)

Effect of amendments. — The 1980 amendment added paragraphs (17) and (18).

Legislative history reports. — For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657.

As the rest of the section was not affected by the amendments, it is not set out.

NOTES TO DECISIONS

Article not void. — The Alaska Wage and Hour Act merely requires higher minimum and overtime pay than the Fair Labor Standards Act, 29 U.S.C. §§ 201-219. Although compliance with both is more expensive than compliance with the federal act, it is not, in any sense, impossible so as to make the Alaska law void. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Or preempted. — Since, under the Alaska Wage and Hour Act, the number of hours required for the overtime rate is less than that under the Fair Labor Standards Act, the Alaska act provides for a lower maximum workweek within the meaning of 29 U.S.C. § 218(a) and consequently, comes within the express saving clause so as not to be preempted by the federal law. Webster v. Bechtel, Inc., Sup. Ct. Op. No. 2245 (File Nos. 3979, 4139), 621 P.2d 890 (1980).

Definition of "supervisory" in the Alaska Administrative Code, that the term as used in this section means a person who directs the activities of other employees and who does not perform duties which are regularly performed by the employees supervised, except for brief periods of time not to exceed more than eight hours in the supervisor's work week, is reasonable and not arbitrary. Alaska Int'l Indus., Inc. v. Musarra, Sup. Ct. Op. No. 1966 (File Nos. 3652, 3676), 602 P.2d 1240 (1979).

Sec. 23.10.065. Minimum wages. An employer shall pay to each of his employees wages at a rate of not less than 50 cents an hour greater than the prevailing Federal Minimum Wage Law or $2.60 an hour, whichever is greater, for hours worked in a pay period, whether the work is measured by time, piece, commission or otherwise. No employer may apply tips or gratuities bestowed upon employees as a credit toward payment of the minimum hourly wage required by this section. Tip credit as defined by the Fair Labor Standards Act of 1938 as amended does not apply to the minimum wage established by this section. (§ 4 ch 171 SLA 1959; am § 2 ch 2 SLA 1962; am § 1 ch 41 SLA 1974)

Effect of amendments. — The 1974 amendment added the language beginning "or $2.60 an hour" to the end of the first sentence and added the second and third sentences.

(c) The director may delegate his powers, functions and duties under AS 23.10.050 — 23.10.150 to a duly authorized representative. (§ 6(1) ch 171 SLA 1959)

Sec. 23.10.080. Powers and duties of division. The director, or his authorized representative, shall

(1) investigate and ascertain the wages and related conditions and standards of employment of any employee in the state;

(2) enter the place of business or employment of an employer at reasonable times for the purpose of inspecting payroll records which relate to the question of wages paid or hours worked;

(3) require and subpoena from an employer a statement in writing, when the director or his authorized representative considers it necessary, of hours worked by and the wages paid to a person in his employ, and the commissioner may require the employer to make his statement under oath;

(4) question an employee in his place of employment during work hours with respect to the wages paid and the hours worked by the employees;

(5) compel the attendance of witnesses and the production of books, papers and documents by subpoena when necessary for the purpose of a hearing or investigation provided for in AS 23.10.050 — 23.10.150. (§ 6(2) ch 171 SLA 1959)

Sec. 23.10.085. Scope of administrative regulations. (a) The director may issue, amend or rescind such administrative regulations not inconsistent with the purposes and provisions of AS 23.10.050 — 23.10.150 which are necessary for the administration of AS 23.10.050 — 23.10.150.

(b) The regulations may, without limiting the generality of (a) of this section, define terms used in AS 23.10.050 — 23.10.150, and the restriction or prohibition of industrial homework or of the other acts or practices which the director finds appropriate to carry out the purpose of AS 23.10.050 — 23.10.150, or to prevent the circumvention or evasion of AS 23.10.050 — 23.10.150.

(c) The regulations may permit deductions by an employer from the minimum wage applicable under AS 23.10.050 — 23.10.150 to his employees for the reasonable cost, as determined by the director on an occupation basis, of furnishing board or lodging if board or lodging is customarily furnished by the employer and used by the employee. (§ 6(3) ch 171 SLA 1959)

NOTES TO DECISIONS

This section and AS 23.10.095 constitute a delegation of authority from the legislature to the agency to formulate policies, leaving to the agency's discretion the issue whether federal definitions of "regular rate of pay" and other terms can be applied consistently with AS 23.10.050 — 23.10.150. Dresser Indus., Inc. v

SCR
58

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 12, 1982

The Honorable Jalmar Kerttula
President of the Senate
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. President:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a resolution which proposes a constitutional amendment regarding contributions to the permanent fund. The amendment would add proceeds from severance or production taxes to the list of revenue sources.

While the tax presently imposed under AS 43.55 is often referred to as a "severance tax," it is not clear whether the Alaska Supreme Court would find that it is a severance tax. See Liberati v. Bristol Bay Borough, 584 P.2d 1115 (Alaska 1978). I have therefore included both production and severance tax proceeds in the proposed amendment.

Sincerely,

Jay S. Hammond
Governor

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER

POUCH S
JUNEAU, ALASKA 99811

February 1, 1982

The Honorable Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Re: Senate Joint Resolution No. 58

Dear Senator Mulcahy:

At the present time 25 percent of all mineral lease rentals, royalties and royalty sale proceeds are explicitly dedicated under the State Constitution to the Permanent Fund. The Constitution also allows the Legislature by statute to increase this percentage, which it has done for the royalty revenues from the Beaufort Sea leases and for bonus bids received for oil and gas lease sales held after 1979. In addition, the Legislature may make special appropriations to the Permanent Fund, as it has done the past two sessions.

The problem with the dedication of 50 percent of future bonuses and royalties from the Beaufort Sea and other new oil and gas production is that it is statutory in origin. That is, what one Legislature enacts another Legislature may repeal. Thus, while it appears that 50 percent of those one-time-only revenues will be going into the Permanent Fund, it remains possible that future Legislatures could change this or repeal it altogether, in which case the 25 percent minimum under the Constitution would again apply.

At present these constitutionally mandated contributions represent about 10 percent of the State's total revenues dervied from oil and gas development. This is because the State's royalties are slightly less than half of the total petroleum revenues; the balance is from taxes on the oil and gas industry. By far the largest of these taxes is the State's Oil and Gas Properties Production Tax (AS 43.55), which is generally referred to as the "severance tax" even though it calls itself a "production tax" in its title.

The difference between a severance tax and a production tax is nearly metaphysical. Both are taxes imposed on the activity of extracting and removing a valuable resource from the ground. However, a

severance tax, strictly speaking, is imposed on the actual act of severing the mineral from the ground in its natural condition as it emerges or is severed. A production tax is imposed on the reduction of the resource to actual possession in a condition of marketability, which may or may not be the same as its natural condition when the mineral is severed. In the case of oil and gas, the processes of cleaning and dehydration, of separating oil from any water and gases in it, of separating the gas from any condensable liquids in it, etc. are all conducted as part of the "production" process. Thus, the comparatively slight amounts of oil or gas that are consumed, used or lost in the course of these "production" operations would not be counted in determining the taxable volume of the oil or gas for purposes of a "production" tax. In contrast, such oil and gas would be included in determining the taxable volumes of each under a "severance" tax.

Happily, for the sake of keeping things straight, our Oil and Gas Properties Production Tax really is a "production" tax, as opposed to a "severance" tax. However, as I indicated, the distinction between these types of taxes is relatively minor for most purposes.

Senate Joint Resolution No. 58 refers both to production taxes and to severance taxes because of the similarity between these kinds of taxes. The clear intent of the Resolution is to amend the Constitution so that the Permanent Fund will receive at least one-quarter of the one-time-only tax revenue collected by the State from the activity of extracting and removing mineral resources from the ground, regardless whether the Legislature retains the present "production"-type tax structure or changes over someday to a "severance"-type tax structure. It might also develop that the "production"-tax approach is retained for oil and gas, but that future taxes someday enacted for other kinds of mineral extraction would be of the "severance"-tax type. By referring to both kinds of tax, the Resolution will ensure that at least a quarter of the revenues from both kinds of extraction-based taxes will be dedicated to the Permanent Fund.

I hope this will assist you in your consideration of SJR 58. Please do not hestitate to contact me if you have any further questions on this matter.

Very truly yours,

Thomas K. Williams
Commissioner of Revenue

TKW:tw

cc: Governor Hammond

SJR

36

Bill No. Senate Joint Resolution No.

Date April 20, 1981

Title Relating to exclusion of state unemployment insurance trust funds from the federal unified budget.

Contact: Judy Knight 465-2700 JK

Funds used for unemployment compensation are generated by payroll taxes enacted by State Legislatures. These funds can be used only to pay unemployment compensation in the state in which they were collected and are held in trust by the federal government and drawn as needed to pay benefits. Since 1969, these funds have been included in the unified budget. The "bottom line" impact of inclusion of state trust funds in the unified budget is that all unemployment compensation--including benefits paid completely from dedicated state funds--appear as federal outlays. This makes unemployment insurance programs the target for budget-balancing proposals such as taxation of benefits, pension offsets, removal of extended benefit claimants from the computation of unemployment rates, and other cost-cutting proposals like those included in the Omnibus Reconciliation Act of December 5, 1980.

In addition to those set out in the Resolution itself, there are a number of other reasons unemployment compensation trust funds should not be included in the unified budget, as follows:

1. The majority of the federal payroll tax is not collected from employers, but is credited if employers participate in an approved state program and are subject to contribution rates set by the state.

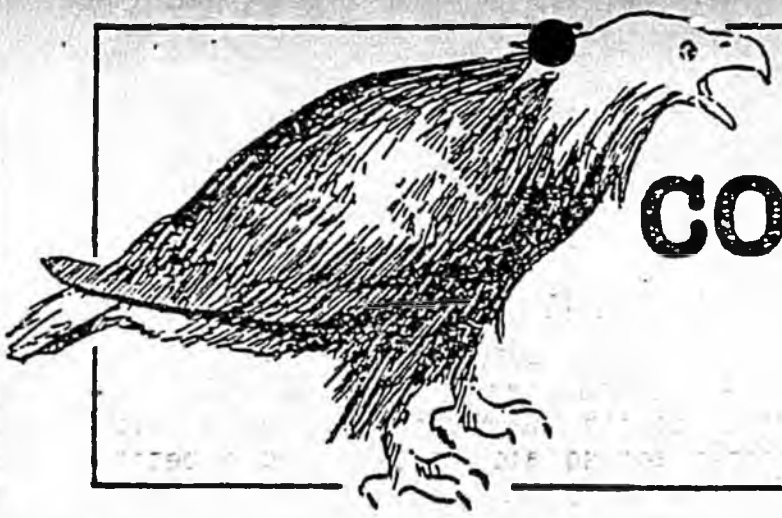
2. The operations of the U.S. Treasury do not require that the accounts be included in the unified budget. The Treasury currently handles accounts for several "off-budget" agencies.

3. Basic program decisions--level and duration of benefits, contribution mechanisms, eligibility, and many administrative functions--are almost entirely in the hands of state legislators.

Policy calling for removal of funds has been adopted by the National Governors' Association, the Interstate Conference of Employment Security Agencies, the Federal Advisory Council on Unemployment Insurance, and the National Commission on Unemployment Compensation. These policy positions were adopted recently and the issue is not yet well-known in Congress. One way to speed consideration of this important issue is to ensure that states' Congressional delegations recognize the impact of inclusion of state unemployment trust funds in the unified budget and are aware of the states' strong desire to remove the funds from the budget. The proposed resolution could be used to convey Alaska's sentiment on this issue to national policy-makers.

Position: The Department of Labor supports the proposed resolution and recommends immediate approval.

POSITION PAPER/Department of Labor



ISSUES & COMMENTARY

ALASKA DEPARTMENT OF LABOR, RESEARCH AND ANALYSIS SECTION APRIL 1981

SHOULD ALASKA OPT OUT OF THE FEDERAL/STATE UNEMPLOYMENT INSURANCE SYSTEM?

By Scott T. Hannigan

The Social Security Act of 1935 established an Unemployment Insurance (UI) program in the United States under joint federal/state management. The major role of the federal partner was administration of a uniform employer tax to fund the program. States were encouraged by the Act to pass local UI legislation with the reserved right to set qualifications and standards for the payment of unemployment compensation. The Act contained provisions for employers to receive credit against the federal tax for contributions to a state UI plan and for states to receive grants to administer their programs. The availability of employer tax credits and state administrative grants were made contingent upon states' compliance with certain features in the Social Security Act. These features were generally found acceptable to the states and a nationwide federal/state UI program was in full effect by 1937. Over the ensuing years, however, numerous amendments to the Act and additional UI legislation by Congress (requiring conforming state legislation) has led to conflicts in the federal/state partnership. The federal government has generally held the upper hand in these conflicts by virtue of the enormous financial clout provided by the tax credits and administrative grants provisions of the Social Security Act. This paper will review the historical beginnings of the federal/state UI program, some of the conformity issues facing the states, and the possibility of future changes including complete separation of the federal and state systems.

Prior to 1935, states had no programs to provide assistance to the unemployed, with the notable exception of Wisconsin, which legislated a comprehensive UI law in 1934. The major obstacle to enactment of UI laws at the state level was directly related to taxes. Specifically, it was felt that a new tax burden on employers would have a detrimental effect on interstate competition. Congress eliminated this obstacle by passing (as part of the Social Security Act) Title IX, which levied a uniform tax on all employers in the country. Title IX allowed employers a 90 percent credit against the tax if they contributed to an approved state UI program. The remaining ten percent of the tax assessment was returned to the states in the form of administrative grants. These financial incentives in Title IX plus the deepening crisis of the 1930's depression strongly encouraged enactment of state UI laws and all states had unemployment insurance programs in operation by 1937. Provisions of Title IX were removed from the Social Security Act and were placed in the Internal Revenue Code by the Federal Unemployment Tax Act of 1939 (FUTA).

Original proponents of the Social Security Act vigorously debated the type of UI program to be recommended--a wholly federal system or a federal/state plan. Arguments for a national system included, among others, that a national system would provide uniform protection from the risks of unemployment, protect the interests of multi-state employers and workers, provide for a national pooling of reserves, and streamline reporting requirements and the payment of taxes. Those who favored a federal/state program argued that a national system would be cumbersome to operate, that centralization would tend to paralyze action, that controversial issues would not receive proper debate and discussion by the states, and that a federal/state system would allow states to tailor the program to fit their needs and would allow wide latitude for experimentation by the states and so aid in producing a better system.[1/] The federal/state plan was the one that finally emerged.

The issues of conformity have existed since the very start of the unemployment insurance program. The Social Security Act contained several provisions that the states were to comply with. Titles III and IX of the Act required state UI laws to include the following major provisions: (1) payment of UI benefits solely through public employment offices or other approved agencies, (2) opportunity for a fair hearing on denied claims, (3) payment of all tax monies collected to the U.S. Treasury (Unemployment Trust Fund), (4) expenditure of all money requisitioned from the Trust Fund for UI benefits only, (5) no benefits to be paid until two years after commencement of tax collections, and (6) several provisions protecting conditions of work acceptance by claimants. Other provisions refer to administrative and reporting requirements. To enforce state conformity to these provisions, the Social Security Act allows for the denial of all employer tax credits and the suspension of state administrative grants. On numerous occasions since the inception of unemployment insurance, Congress has passed amendments to the Act necessitating conforming legislation at the state level. A major example has been amendments that have extensively increased UI coverage to such worker groups as state and local government employees and employees of non-profit institutes.

More recent conformity issues have included pension offset provisions (P.L. 96-364) and provisions of the 1980 Omnibus Reconciliation Act (P.L. 96-499). The pension offset provision requires a reduction of a claimant's weekly benefit by the amount of any pension (attributable to a base period employer) received by the claimant. The Reconciliation Act requires conforming state legislation to deny the payment of extended benefits for voluntary quits and discharges for misconduct regardless of applicable state law for regular benefits (i.e., if state law reinstates benefit entitlement for regular benefits after a penalty period, the entitlement would be cancelled for extended benefits). Failure to accept suitable work (as defined by federal law) or failure to seek work also results in denial of extended benefits.

Even further encroachment by the federal government will occur if recent proposals of the Reagan Administration are adopted. These include (1) changes in the extended benefits program to eliminate the national trigger and to revise the methods of calculating state triggers (both of which determine when extended benefits are to be paid); (2) requirements that unemployed workers who have collected 13 weeks of state UI accept any job that meets minimum wage and safety standards if the wages are equal to or greater than their UI benefits; and (3) eliminate UI for those who leave the military voluntarily.

The rising spectre of federalism in unemployment insurance has caused concern in

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1/ William Haber and Merril G. Murray, Unemployment Insurance in the American Economy, Richard D. Irwin, Inc. 1966.

Alaska and many other states. In most conformity issues, the states have grudgingly complied with federal legislation because they fear to lose tax credits for their employers and administrative grants for their programs. The mere threat of sanctions has kept states in line and the sanctions have never been fully applied. A specific instance where Alaska has run headlong against the federal government has been on the issue of interstate benefits. In 1955 and again 1960 Alaska reduced the maximum weekly benefit amount to out-of-state claimants in order to curtail the amount of UI dollars leaving the state.* The state was required to retreat from this position in 1972 when Congress decided the practice was discriminat ry to the rights of workers to move from state to state seeking employment. This interstate question has become a point of concern in recent years as Alaska has seen one-third of all its UI dollars pouring out of the state, aiding the economies of other states instead of our own. An even larger problem looms in the future amid talk of federal benefit standards requiring a maximum benefit equal to 2/3 of a state's average weekly wages. Alaska traditionally pays more benefits per dollar of total wages than any other state. This standard would put employer costs through the ceiling and could possibly drain the state's trust fund.

Potential solutions to the partnership problem are varied and complex. Many people over the years have advocated complete federalization of unemployment insurance. Most states, however, take a dim view of this type of encroachment on their rights. Another course would be to maintain the present system with some sort of systematic court review of conformity sanctions.[2/] The most extreme solution would be for a state to permanently refuse to comply with federal legislation.

The remainder of this paper discusses ramifications if Alaska chooses to remove itself from the federal/state system. The most direct effect would be monetary. Shown below are cost estimates for Alaska's UI program in 1982 comparing an out of conformity situation with a conforming one.

	Estimated Costs for 1982	
	In Conformity	Out of Conformity
State Taxes	$63.6 million	$63.6 million
FUTA Taxes	7.0 million	34.0 million
UI Administration	Federal Grants (From FUTA Taxes)	11.5 million
ES Administration	Federal Grants (From FUTA Taxes)	7.9 million
Extended Benefits (50% Federal)	Federal Reimbursements (From FUTA Taxes)	4.5 million
TOTAL	$70.6 million	$121.5 million

*Ch. 5, ESLA 1955 and Ch. 60, SLA 1960.

2/ Ibid.

The comparison shows that operating the current program while failing to conform to federal requirements would result in additional costs of $50.9 million. Most of the cost ($27 million) would be levied on employers as a result of lost FUTA tax credits. Employers might also be expected to pay administrative costs as well as funding full benefit outlays. If that were the case, employer costs would increase by approximately seventy percent. This burden could be reduced if employee contributions were increased and/or the state absorbed administrative costs.

One major question of the conformity issue concerns federal responsibility if employers opt to pay the full FUTA tax. The system was designed to pay benefits equal to 2.7 percent of taxable wages. Of the three percent FUTA tax, this 2.7 percent was to be dropped if employers contributed to the benefit fund of an approved state program. The implication is clearly that the 2.7 percent was to be used for paying benefits. Further, if employers opt to pay the full FUTA tax, the implication is that no state taxes would be necessary because the federal partner should be responsible for benefits.

The system was not--at least, should not have been--designed to coerce states into setting up their own unemployment insurance programs. Since costs would be three percent of taxable wages under a state or federal system, states would obviously find it attractive to design systems to fit their own social and economic conditions rather than accept standards determined in Washington. This "logical interpretation" does not coincide with the "legal interpretation." According to an unofficial opinion of the Solicitor General, the federal government has no power to implement an unemployment insurance program in any state. In other words, the system was designed to force states to implement unemployment insurance programs via making them pay for one whether they have one or not.

Failure to maintain an approved program would result in the 2.7 percent "credit" flowing into the federal administrative account rather than a benefit account, with the state receiving no funds in return. No state has informed the federal partner that it intends to drop its own program in favor of federalization and so the position remains unchallenged. It is conceivable that the "back door" federalization now in progress will change this situation in the future. The issue is not a simple one and raises a host of questions about the federal/state relationship. Some alternative relationships that might be considered for the operation of an unemployment insurance program in Alaska are discussed below.

The discussion centers on estimates of the average employer cost per worker (with annual earnings at or above the taxable wage base of $13,300) and includes the current system for comparison purposes.

CURRENT SYSTEM		
FUTA Tax (0.7% of first $6,000)†	=	$ 42
State Tax (3.3% of first $13,300)	=	439
TOTAL TAX	=	$481

One (untested) alternative is to drop the state system in favor of a federal program funded from the maximum FUTA tax. Employers would then pay the full FUTA tax of $204 per employee and all program provisions would be determined in Washington.

FEDERAL SYSTEM		
FUTA Tax (3.4% of first $6,000)†	=	$204
TOTAL TAX	=	$204

A second alternative would supplement a federal system with a separate state system. Costs would be dependent on the level of benefits the state wishes to provide. The state system would also require administrative funds of approximately $19 million.

An independent state program is a third alternative. The cost figures below assume that the FUTA tax is paid and that the state receives no funds in return. Obviously the combined cost of running a state system and paying penalty FUTA taxes could exceed the capabilities of many employers to pay. Some form of state assistance may be necessary (especially in light of expected increases in the taxable wage base for FUTA which will probably become effective in 1983 or 1984). The most plausible forms of state assistance are assumption of the liability for FUTA taxes and/or administrative costs and state support of benefits through appropriations to the UI Trust Fund.

INDEPENDENT STATE SYSTEM		
State Tax (3.3% of first $13,300)	=	$439
FUTA Tax (3.4% of first $6,000)	=	$204
Administrative Costs		$120
TOTAL TAX	=	$703

There are a number of areas where Alaska could effect some cost savings if the state were running an independent UI program. Some cost saving areas and approximate dollar amounts are listed below:

†The FUTA tax is set at 3.0 percent of the first $6,000 of each employees wages. The rate was temporarily increased to 3.4% to reduce the national debt in the FUTA account. If a state's UI law is in conformity with federal law, then employers receive a 90 percent credit on their FUTA taxes and pay in effect 0.7 percent (10% of 3.0% = 0.3 + 0.4 added tax = 0.7%).

Potential Cost Savings

(Projected on basis of Alaska's 1980 UI law)

1. Eliminate dependents benefits for out-of-state claimants (140,000 interstate payments X $8.55 [average interstate dependent payment])	$1.2 million
2. Eliminate extended benefits for out-of-state claimants (assuming Washington, Oregon and California still triggered on) 25% of estimated EB payments of $4.75 million state share)	$1.2 million
3. Reduce interstate benefit to 50 percent of calculated WBA (140,000 interstate payments X $116 [average interstate payment X 50%]) (excludes amount in #1)	$8.1 million
4. Eliminate interstate benefits entirely (140,000 interstate payments X $124.50 [average interstate payment] (includes amount in #1)	$17.4 million
5. Withdraw from interstate wage combining plan (net figure from 1980)	$0.3 million
6. Withdraw from unemployment compensation plan for ex-federal employees and ex-servicemen (5% of administrative costs)	$0.8 million

As indicated, some of these savings overlap. The maximum savings would be about $18.5 million, which is approximately equal to expected administrative costs. The possibilities are limitless in creating an independent state UI system. No state UI program (with the exception of the original Wisconsin plan) has existed outside the federal/state system, so no previous experience is available to formulate such a program. Opportunities exist for Alaska to tailor a UI program to the unique conditions of the state. Alaska's concerns with chronic unemployment, high wages, seasonal jobs, an itinerant labor force, and undiversified industries have not been satisfactorily addressed under the federal/state UI system.

Many legal and political questions arise in relation to separating the state's UI program from the federal/state structure. Would (and can) the federal government permit the state to break away? Would the national system disintegrate if other states wanted to drop out? Is the nature of unemployment beyond the capabilities of any one state to cope? Would the courts become involved in issues of "equal protection" and "due process" on behalf of denied out-of-state claimants? These and a host of other questions can only be answered by the legislature and the courts and are beyond the scope of this paper.

Opting out of the system is an issue that has gained prominance due to recent expansion of the federal partner's role in this cooperative system. It is a radical step and is likely to be accompanied by high costs and by legal battles.

Discussion of opting out is often the result of frustration with the expanding role of the federal partner and of a realization that this expansion cannot be successfully countered by piecemeal resistance to individual intrusions on state prerogatives.

Before taking a radical step, alternatives should be considered. The level of interference by the federal partner has increased substantially since the unemployment insurance trust funds were placed in the federal unified budget in 1969. In attempts to reduce budget deficits, Congress has enacted several changes to the UI system. Although the changes may have been proposed primarily for their budgetary effect, they have had profound impact on the program and on the nature of the federal/state cooperative arrangement. The key to a return to true partnership may lie in removal of state trust funds from the federal unified budget. Alleviating budgetary pressure may accomplish many of the desirable goals of opting out without some of the negative aspects. That is, removal of the trust funds from the budget could reverse the tendency toward federal intervention and would not carry the potential to destroy the existing federal/state partnership.

HB
55

January 12, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill allowing temporary licensing of qualified applicants who are waiting to take examinations given by the Board of Veterinary Examiners.

The current law requires an applicant who is qualified to take the veterinary examinations to wait until completing all required examinations before being able to work at all. Sometimes it will be months before an applicant can take the required examinations. This bill would amend the statute to allow an otherwise qualified applicant to be temporarily licensed to work under supervision of a licensed veterinarian after applying to take the required examinations.

The bill also corrects an error in the wording of AS 08.98.060(9) of the current law which creates the false impression that veterinary technologists may practice veterinary medicine.

Sincerely,

S/JSH

Jay S. Hammond
Governor

MEMORANDUM State of Alaska

TO: Michael Thill, Committee Aide
Senate Committee on Labor & Commerce

Pete Jeans, Deputy Commissioner
Department of Commerce and
Economic Development

FROM: Harry D. Treager, Director
Division of Occupational Licensing
Department of Commerce and
Economic Development

DATE: March 13, 1981

FILE NO:

TELEPHONE NO:

SUBJECT: House Bill 55

Responding to your memorandum of March 9, 1981, the following information is as you requested. This division's position in regard to the bill is that we support it. This is a clean-up method for AS 08.98. There is or will be no fiscal impact pertaining to this bill affecting this division. The statute the bill addresses is a matter of cleaning up some of the language and allowing applicants a temporary license with less stringent requirements.

Addressing the questions you proposed -- the veterinarian examination is conducted twice yearly; this is in the months of December and May. There are two examinations required; one is a national examination and the second being a State exam. Both examinations are administered by the State. The reason the examinations are given during the months of May and December is to coincide with other national examinations throughout the country.

As related in the present statute, a temporary license is only given after a written examination. This temporary license is good only until the results of the examination are returned, which usually takes about four to six weeks.

There is fee of $20.00 for a temporary license.

Presently, this division has not issued any temporary licenses.

There are presently 117 licensed veterinarians in the State.

In regards to doing the research for your response, we have found that there has been a decrease in applicants for the veterinarian examination. The present requirements outlined in the statutes are that an applicant can be licensed by credential; however, the applicant must meet certain requirements: 1) pass a national examination; 2) must work as a licensed veterinarian five of the past seven years; and 3) additionally must be licensed in another state. This area of licensing does not deal with temporary licenses.

In regards to comments for SB 31, they will be followed up on a separate memorandum. If I can be of any further assistance, please do not hesitate to contact my division.

HDT/kkk5/3

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 55:

Presently, a veterinarian must meet educational and professional conduct standards and must have completed the examination before qualifying for a temporary license.

HB 55 amends the section relating to temporary licensing of veterinarians. A person is eligible to receive a temporary license if he meets the following;

1. Completion of education requirements
2. Has had no complaints,disciplinary proceedings, or professional review pending
3. Has not had a veterinarian license revoked
4. Has applied for the examination and presently works under the supervision of a licensed veterinarian

The application for a temporary license must be signed by the supervising veterinarian and be accompanied by the fee.

Current law requires that a prospective candidate must complete all the examinations before being allowed to work at all. This bill also corrects wording in the statute which gives the impression that a veterinarian technologist may practice medicine (veterinary).

or other specialty act featuring any number of performers for which a ticket is sold in advance for purposes of profit by a concert promoter; the term does not include dramatic performances;

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

(3) "promoter" means a person who contracts for and arranges a concert for purposes of profit whether engaged full time or part time in the business of booking or hiring concerts. (§ 1 ch 114 SLA 1977)

Chapter 98. Veterinarians.

Article
1. Board of Veterinary Examiners (§§ 08.98.010 — 08.98.100)
2. Licensing (§§ 08.98.120 — 08.98.210)
3. Enforcement (§ 08.98.230)
4. General Provisions (§ 08.98.250)

Article 1. Board of Veterinary Examiners.

Section
10. Creation and membership of board
20. Appointment and term of office
30. Executive secretary of board
40. Board meetings
50. Duties of the board
60. Board regulations
70. Duties of the department
80. Department regulations
90. Applicability of the Administrative Procedure Act
100. Compensation

Sec. 08.98.010. Creation and membership of board. There is a Board of Veterinary Examiners. It consists of three licensed veterinarians. (§ 1 ch 91 SLA 1963; am § 1 ch 94 SLA 1966)

Sec. 08.98.020. Appointment and term of office. The governor shall appoint the members of the board, with the confirmation of the legislature, for terms of four years, or until their successors are appointed. A member serves at the pleasure of the governor. The first members shall be initially appointed for two-, three- and four-year terms. (§ 1 ch 91 SLA 1963)

Sec. 08.98.030. Executive secretary of board. The commissioner of commerce and economic development is the executive secretary of the board. (§ 1 ch 91 SLA 1963; am § 59 ch 218 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "commissioner of commerce and economic development" for "commissioner of commerce."

Sec. 08.98.040. Board meetings. The board shall hold a regular annual meeting. The board may hold special meetings at the call of the chairman with prior approval of the governor. (§ 1 ch 91 SLA 1963)

Sec. 08.98.050. Duties of the board. The board shall

(1) pass on qualifications of applicants for licenses and issue licenses to those who quality;

(2) prepare and grade examinations, provided that the board may use examinations prepared by the National Board of Veterinary Examiners;

(3) after hearing, have the authority to suspend or revoke the license of a licensed veterinarian who

(A) obtained his license by fraud, misrepresentation, or deception;

(B) is chronically drunk or is a drug addict;

(C) makes untruthful statements about his professional ability, to solicit business;

(D) distributes alcohol or drugs except as required by the practice of veterinary medicine, surgery, or dentistry;

(E) in his professional capacity, conducts himself in a way that indicates he is not a competent veterinarian;

(F) is convicted of a felony or any crime involving moral turpitude;

(G) falsifies an official state or federal certificate relating to veterinary medicine. (§ 1 ch 91 SLA 1963; am § 2 94 SLA 1966; am § 1 ch 54 SLA 1967)

Sec. 08.98.060. Board regulations. (a) The board shall adopt procedural regulations describing how a person applies for and takes an examination under this chapter.

(b) The board shall adopt substantive regulations

(1) defining conduct which, if engaged in by a veterinarian, is evidence of incompetence;

(2) specifying approved schools under § 170(1) of this chapter;

(3) specifying the subject matter to be covered in an examination for veterinarians. (§ 1 ch 91 SLA 1963)

Sec. 08.98.070. Duties of the department. The department shall furnish the board with administrative services, including renting space for holding examinations, printing and mailing licenses, sending notices, before December 1 of each year, that licenses must be renewed, collecting fees and issuing receipts, keeping a current register of licensees, employing secretarial assistants, replying to routine requests for information, printing forms and informational bulletins, typing all matter to be reproduced, maintaining records and completed examinations, and keeping records of receipts and disbursements. (§ 1 ch 91 SLA 1963; am § 3 ch 94 SLA 1966)

Sec. 08.98.080. Department regulations. The department shall adopt procedural regulations necessary to carry out the duties imposed on it by § 70 of this chapter. (§ 1 ch 91 SLA 1963)

Sec. 08.98.090. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under this chapter. (§ 1 ch 91 SLA 1963)

Legislative committee report. — Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

Sec. 08.98.180. Temporary license. A person who meets the requirements of § 170 of this chapter is entitled to be licensed. A license issued under this section is valid until the results of the examination following the issuance of the license are published. No person may receive more than one license under this section. (§ 1 ch 91 SLA 1963; am § 7 ch 94 SLA 1966)

Sec. 08.98.190. Fees. The following fees shall be imposed under this chapter when applicable:

(1) examination fee	$25
(2) reciprocity fee	25
(3) initial license fee	25
(4) biennial renewal	50
(5) temporary license	10

(§ 1 ch 91 SLA 1963; am § 1 ch 53 SLA 1968)

Sec. 08.98.200. Reinstatement of lapsed license. A person whose license has lapsed is entitled to have his license reinstated without taking an examination unless his license has remained lapsed more than five years. (§ 1 ch 91 SLA 1963; am § 2 ch 53 SLA 1968)

Sec. 08.98.210. Out-of-state veterinarian. A veterinarian in good standing in a veterinary association of another state or territory or the District of Columbia which licenses veterinarians to practice veterinary medicine may be licensed without examination and otherwise upon substantially the same terms and conditions as are fixed in the jurisdiction from which he has come for the licensure of a veterinarian from this state. As a prerequisite to licensure the board shall require a veterinarian to take and pass an examination, unless the applicant has

(1) passed a state veterinarian examination;

(2) engaged in the active practice of veterinary medicine for at least five out of the previous seven years before filing the application excluding time spent in the military service of the United States;

(3) graduated from an accredited school of veterinary medicine;

(4) met the character requirements established by the board. (§ 1 ch 91 SLA 1963; am § 8 ch 94 SLA 1966; am § 2 ch 54 SLA 1967)

Article 3. Enforcement.

Section
230. Injunction

Sec. 08.98.230. Injunction. When it appears that a person has engaged in or is about to engage in an act constituting a violation of § 120 of this chapter, the board, through its executive secretary, shall

Cross reference. — For present provisions as to the power of the board to enact regulations, see AS 08.98.050.

Editor's note. — The repealed section derived from § 1, ch. 91, SLA 1963.

Article 2. Licensing.

Section	Section
120. License required	180. Temporary license
130. [Repealed]	184. Licensure by credentials
140. Content of examination	186. Temporary permit
165. Qualification for license	190. Fees
170. [Repealed]	210. [Repealed]

Sec. 08.98.120. License required. No person may practice veterinary medicine, surgery, or dentistry unless he is licensed under this chapter or has a temporary permit, except that a veterinary technician may perform functions authorized by regulation of the board. (§ 1 ch 91 SLA 1963; am § 7 ch 130 SLA 1980)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, added the language beginning "or has a temporary permit" to the end of the section.

Sec. 08.98.130. Examination.

Repealed by § 16 ch 130 SLA 1980.

Editor's note. — The repealed section derived from § 1, ch. 91, SLA 1963.

Sec. 08.98.140. Content of examination. (a) The examination shall be in subjects related to the practice of veterinary medicine, surgery, and dentistry and shall include

(1) the examination prepared by the National Board of Veterinary Medical Examiners or other national veterinary examination determined to be acceptable by the board; and

(2) a standardized written examination testing practical skills.

(b) The board may demand a practical demonstration of skills. (§ 1 ch 91 SLA 1963; am § 8 ch 130 SLA 1980)

Effect of amendment. — The 1980 amendment, effective July 1, 1980, designated the provisions of this section as subsection (a), deleted "veterinary anatomy, surgery, medicine, obstetrics, pathology, chemistry, diagnosis, materia medica, therapeutics, physiology, sanitary medicine, dentistry, and other scientific" preceding "subjects" in the introductory language of subsection (a), added all of the language beginning "and shall include" to the end of subsection (a), and added subsection (b).

Sec. 08.98.165. Qualification for license. (a) An applicant is qualified to receive a license as a veterinarian who

(1) is a graduate of an accredited veterinary school or who has passed the examination of the American Veterinary Association's Education Commission for Foreign Veterinary Graduates;

(2) has passed an examination prepared by the National Board of Veterinary Medical Examiners or an equivalent examination as determined by the board, or qualifies for an exemption under (b) of this section;

(3) has passed the written examination of the state;

(4) has passed a practical examination of skills, if required by the board; and

(5) has no disciplinary proceeding, unresolved complaint, or professional association review proceeding pending at the time a license is to be issued, and has not had a veterinarian license revoked for cause in another jurisdiction.

(b) An applicant is exempted from taking the examination required under (a)(2) of this section if he furnishes proof acceptable to the board that he has passed the examination prepared by the National Board of Veterinary Medical Examiners or an equivalent examination within the five years before application, or has been in active practice of veterinary medicine for five of the seven years before application in another state, territory, or country with licensing requirements substantially similar to or higher than those of this state which were in effect at the time the applicant obtained his license in the other jurisdiction. (§ 9 ch 130 SLA 1980)

Effective date. — Section 17, ch. 130, SLA 1980, makes this section effective July 1, 1980, in accordance with AS 01.10.070(c).

Sec. 08.98.170. Qualification for examination.

Repealed by § 16 ch 130 SLA 1980.

Cross reference. — For present provisions covering the subject matter of the repealed section, see AS 08.98.165.

Editor's note. — The repealed section derived from § 1, ch. 91, SLA 1963; §§ 5, 6, ch. 94, SLA 1966; § 25, ch. 245, SLA 1970.

Sec. 08.98.180. Temporary license. A person who meets the requirements of AS 08.98.165(a)(1) and (5) is entitled to be temporarily licensed after completing the examinations under AS 08.98.165(a)(3) and (4) and after completing the examination required under AS 08.98.165(a)(2) or qualifying for an exemption to it. A license issued under this section is valid until the results of the examinations are published. No person may receive more than one temporary license. (§ 1 ch 91 SLA 1963; am § 7 ch 94 SLA 1966; am § 10 ch 130 SLA 1980)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 55
Title An Act relating to regulation and licensing of veternarians
Requested by Governor Date 12/11/80

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Regulation and licensing of professions
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 80	FY 81	FY 82	FY 83	FY 84	FY 85
100 PERSONAL SERVICES			0			
200 TRAVEL			0			
300 CONTRACTUAL			0			
400 COMMODITIES			0			
500 EQUIPMENT			0			
600 LAND & STRUCTURES			0			
700 GRANTS, CLAIMS, ETC.			0			
			0			
TOTAL			0			

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME			0			
PART TIME			0			
TEMPORARY			0			

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

IV. DATE 12/11/80 PREPARED BY Harry D. Treager
AGENCY Division of Occupational Licensing
PHONE 465-2534

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

33-001 (Rev. 12/79)

HB

74

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER

P. O. BOX 1149
JUNEAU, ALASKA 99811
Phone: 465-2700

April 15, 1982

The Honorable Bob Mulcahy
Chairman, Senate Labor & Commerce Committee
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Senator Mulcahy:

The Department of Labor was not aware of the requirements prescribed in Section 09.38.115, page 16 and 17, of Committee Substitute for House Bill No. 74 (Rules) until the bill was calendared by the House of Representatives. The department does have the information and the requirements of this section would not present a work load problem.

However, several technical changes are needed. The Consumer Price Index for Anchorage is only published bi-monthly and there is approximately a 30-day delay in publishing data. For instance, data published for January of a given year would not be available until the end of February. Therefore, the following changes are requested.

Page 16, line 17 should read:

"point, between the index for January of the even-numbered year . . ."

Page 17, line 7 should read:

"1) On or before June 15 of each year . . ."

There is no consumer price index for December and the date change would insure the department could adopt the regulation and adhere to the statutory time requirements for promulgating regulations.

Thank you for your consideration of these amendments. If a hearing is scheduled, a representative of the department would be available to provide testimony. A fiscal note is enclosed.

Sincerely,

Judy

Judy Knight
Legislative Liaison
Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill 74 (Rules)

Title "An Act relating to the rights of debtors and creditors.

Requested by Senate Labor and Commerce Date 4/15/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Administrative Services

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

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

The information required is already available.

IV. DATE 4/15/82 PREPARED BY Nico Bus, Finance Officer

AGENCY Department of Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HB

94

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Committee Meeting Minutes: 1 June, 1981

The Senate Labor and Commerce meeting was called to order by Senator Mulcahy, and all committee members were present. The Chairman invited public testimony to address CS HB94am.

Jackie MacClintock, Director of the Division of Worker's Compensation, Department of Labor provided testimony on CS HB94am thru a sectional analysis of the bill. Upon the completion of her section by section overview, she elaborated on Vocational Rehabilitation efforts stressing the positive benefit to the State, employers, the injured workers, and their families.

Senator Mulcahy entertained questions of the committee members, and Senator Rodey wished to know if CSHB94am had been extracted from the original worker's compensation study commission to which Ms. MacClintock responded affirmatively. Senator Ziegler questioned the expansion of the worker's compensation board, and it was explained that the process of hearing and processing claims would be expedited. Senator Fahrenkamp asked about the premium increases relative to the 6% requirement in the bill and Jackie MacClintock responded that the Division of Insurance projected a 1% premium increase to assure the solvency of the second injury fund.

Senator Mulcahy asked if there were any further questions or people who wished to testify. A motion was made that CSHB94am should move from committee with individual recommendations, and the meeting was adjourned.

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CSSB 94am; Sectional Analysis:

Section 1: Adds additional panel to the Worker's Compensation Board which in the event regular members are unable to attend, may sit in any district. Members, except the Chairman or his designees, are appointed pursuant to AS 23.30.005, and at times have scheduling conflicts with their own occupations. Amendment will insure that disputed claims are heard expeditiously, by a full board, and will provide the resources to conduct additional hearings when the workload requires.

Section 2: Expands the base for contributions to the second injury fund and incorporates a contribution schedule to insure the solvency of the fund. Changes the base for payments to the fund from permanent partial disability to permanent total, temporary total, and temporary partial disability. Under Section 7, an initial contribution rate of 6% is established, which will build the reserves before a sliding rate scale takes effect in 1983. Allows a more realistic maintenance allowance of $200 a month and total maximum expenditures for retraining to $10,000 in order to cover an inflationary rise incosts for rehabilitation or retraining. Also transfers the administrative expenses of the State from the resources of the second injury fund to the general fund.

Section 3: Amendments are administrative "housekeeping" changes to enable the Division and Board to streamline the processing of claims and provide current claim information and injury statistical data to the public and private sectors.

1. Clarifies a controverted claim, and the requirements under which a notice of controversion must be filed.

2. Requires notice to be filed with the board whenever payment of compensation has begun, is terminated or changed, and provides penalties for failure to file notice.

3. Requires periodic reporting of all payments made on claims

which will be used to provide the public and private sectors with current and accurate statistical data.

Section 4: This section is amended to include a definition for the term "reserve rate" as used in section 2.

Section 5: Repeals provision of AS 23.30.155 (g) due to proposed legislation.

Section 6: Clarifies that the amount of payment to the second injury fund and the conditions under which payment is required, is in accordance with the version of AS 23.30.040(b) that was in effect on the date of injury to the employee.

Section 7: Section establishes an initial contribution rate of 6% beginning July 1, 1981 and ending December 31st, 1982, which will build reserves before a sliding rate scale takes effect in 1983.

Section 8: Provides for an effective date for the bill of July 1, 1981.

COMMITTEE REPORT

SENATE

5/13/81

FURTHER: Finance

Date: [illegible]

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 94(Fin) am workers' compensation

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

[signature]

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[signature]

[signature]
CHAIRMAN

S 60 (Rev. 12/78)

I. REQUEST

Bill/Resolution No. CS HB 94 (Fin) #-3 Rehabilitation amendment

Title An Act relating to workers compensation

Requested by Rogers Date May 12, 1981

II. FISCAL DETAIL

Agency Affected Department of Labor

Program Category Affected Administration of Workers' Compensation

BRU, Program, or Subprogram(s) Affected Public Protection

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

EXPENDITURES (Thousands of Dollars)

		FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100	PERSONAL SERVICES				95.0	0	
200	TRAVEL				25.0	0	
300	CONTRACTUAL				40.0	0	
400	COMMODITIES				0	0	
500	EQUIPMENT				0	0	
600	LAND & STRUCTURES				0	0	
700	GRANTS, CLAIMS, ETC.				0	0	
	TOTAL				160.0	0	

FUNDING (Thousands of Dollars)

GENERAL FUND				160.0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY				5		

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

100. PERSONAL SERVICES:	Project Coordinator (6 months temporary)	30.0
	Legal Researcher & Drafter (6 months temp)	25.0
	Research Analyst (6 months temporary)	15.0
	Secretarial/Clerical (2 @ 6month temp)	25.0
		95.0
200. TRAVEL AND PER DIEM:	In-state (includes 3 public hearings)	10.0
	Out-of-state (consult with other states)	15.0
300. CONTRACTUAL:	Technical consultations	15.0
	Office costs and support	25.0
		160.0

IV. DATE 5/12/81 PREPARED BY [signature]

AGENCY Legislative

PHONE 465-4920

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/78)

HB94

January 19, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18 of the Alaska Constitution, I am transmitting a bill amending the Workers' Compensation Act to add two statewide members to the Workers' Compensation Board and provide adequate funding for the second injury fund. The bill also amends the conditions under which the state assumes liability for injuries to a person placed by vocational rehabilitation services.

Sincerely,

S/JSH

Jay S. Hammond
Governor

TASK

HB

115

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 115:

SEC 1: Exempts pressure vessels of 5 cubic feet or less and vessels with an inside diameter of 6 inches or less from the inspection requirement. Unfired pressure vessels, hot water boilers, and domestic water heaters which do not exceed the BTU capacities of Boiler and pressure vessel Codes are also exempted.

SEC 2: And 3: Deputy inspectors and special inspectors must pass a national exam. Companies authorized by the Dept. of Commerce and Economic Dev. to insure against certain types of losses may employ special inspectors.

SEC 4Requires inspectors to use Department of Labor Reporting Forms, and specifies the kind of dangerous condition which a special inspector must report to the Department.

SEC 5: Examination for both special inspectors and deputy inspectors will be the National Board of Boiler and Pressure Vessel Inspectors examination.

SEC 6: Defines grounds for the revocation or suspension of a special or deputy inspector. Removes "untrustworthiness" as a ground for suspension, yet retains "incompetence". Conviction of certain crimes (bribery and perjury) is a ground for suspension or revocation. Intentional falsification is also penalized.

SEC 7: Time requirements for certificates of inspection are clarified and internal and external examinations for specific types of boilers are defined.

SEC 8: Requires that each inspection be made by a deputy or special inspector.

SEC 9: The Departmnet of Labor is to be the recipient of fees.

SEC 10: Requires the Company authorized by the Department of Commerce and Eccnomic Dev. to insure boilers and pressure vessels to notify the Department of Labor when it discontinues insurance.

SEC 11: Owner or user of the boiler or pressure vessel to pay the inspection fee to the Department of Labor.

SEC 12: (and 13) Defines boilers covered by second and third class boiler operators licenses to clarify the maximum capacity for the steam boiler and the maximum heat output for the high temperature or high pressure water boiler.

February 2, 1981

Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill on boiler and pressure vessel safety standards (AS 18.60). The bill would adapt the Alaska Statutes to the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers and make some alterations in the procedure of qualification for boiler and pressure vessel safety inspectors. A section-by-section description is attached for your convenience.

Sincerely,

S/JSH

Jay S. Hammond
Governor

Attachment

HB 113

SECTION-BY-SECTION DESCRIPTION

Section 1 exempts from inspection requirements pressure vessels of five cubic feet or less in places of public assembly and those having an inside diameter of six inches or less. Unfired pressure vessels and hot water supply boilers or domestic water heaters will also be exempted from the inspection requirements where their BTU capacities and water temperature do not exceed the limits specified by the Boiler and Pressure Vessel Code.

Sections 2 and 3 require that both deputy inspectors, who are employed by the Department of Labor, and special inspectors, who are employed by owner-users or insurance companies and certified by the state, pass a national examination. The bill also specifies that companies authorized by the Department of Commerce and Economic Development to insure against certain types of losses may employ special inspectors.

Section 4 requires inspectors to use reporting forms adopted by the Department of Labor rather than by the American Society of Mechanical Engineers for certification inspection. It also specifies the kind of dangerous condition which a special inspector must report to the department.

Section 5 specifies that the examination for both special and deputy inspectors will be the standard National Board of Boiler and Pressure Vessels Inspectors examination.

Section 6 spells out grounds for revocation or suspension of a state commission for either a special or deputy inspector. "Untrustworthiness" is removed as a ground for suspension or revocation. "Incompetence" remains. Conviction of specified crimes -- bribery and perjury -- in connection with official duties is inserted as a ground for revocation or suspension, and falsification is expanded and clarified to permit the penalty only for intentional falsification of any material matter in connection with an inspection report or an administrative or judicial proceeding. Substituting "intentional" for "wilful" in AS 18.60.200(a)(3) is intended to conform this terminology to that in the new criminal code.

Section 7 specifies the types of internal and external examination required for specific types of boilers, depending upon construction. The period of time within which certificates of inspection are required is also clarified.

Section 8 requires that each inspection be made by a deputy or special inspector.

Section 9 changes the recipient of fees from the deputy inspector to the Department of Labor. The section also repeals time limits on the validity of the inspection certificates; those limits are unnecessary because of the amendments to AS 18.60.320.

Section 10 requires any company authorized by the Department of Commerce and Economic Development to insure boilers or unfired pressure vessels to notify the Department of Labor each time it discontinues the insurance for a boiler or pressure vessel in Alaska. Reinspection is then required only if the insurance was terminated because of a condition dangerous to life or property.

Section 11 requires the owner or user of the boiler or unfired pressure vessel inspected by a deputy inspector to pay the inspection fee to the department rather than to the deputy inspector.

Sections 12 and 13 change the definitions of boilers covered by second and third class boiler operators' licenses to clarify the maximum capacity for the steam boiler and the maximum heat output for the high temperature or high pressure water boiler.

Article 3. Boilers.

Section
180. Regulations
190. Effect of regulations
200. New boilers and unfired pressure vessels
210. Exemptions
220. Duties of the Department of Labor
230. Appointment of deputy inspectors
240. Appointment and qualifications of special inspectors
250. Compensation for special inspectors prohibited
260. Duty of special inspectors
270. Report of inspection
280. Right of inspection
290. Examination for deputy and special inspectors
300. Revocation or suspension of commission
310. Replacement of lost or destroyed certificate or commission
320. Inspection of boilers and unfired pressure vessels
330. Rules of inspection
340. Inspection certificates
350. Suspension of inspection certificate
360. Inspection fees
370. Appeals
380. [Repealed]
390. Inspection certificate required
395. Licensing of boiler operators

Sec. 18.60.180. Regulations. The Department of Labor shall formulate definitions, rules and regulations for the safe and proper construction, installation, repair, use and operation of boilers and for the safe and proper construction, installation and repair of unfired pressure vessels. The definitions, rules and regulations shall be based upon and shall follow the generally accepted nationwide engineering standards, formulae, and practices established for boiler and unfired pressure vessel construction and safety. The Department of Labor may adopt the existing published codification of these definitions, rules and regulations, known as the Boiler Construction Code of the American Society of Mechanical Engineers, and may adopt the amendments and interpretations made and published by that society. The Department of Labor shall adopt amendments and interpretations to the code immediately upon their promulgation by the American Society of Mechanical Engineers so that the definitions, rules and regulations at all times follow generally accepted nationwide engineering standards. (§ 1(c) ch 132 SLA 1955)

Cited in College Enterprises, Inc. v. State, 6 Alas. L.J. No. 2, p. 35 (Feb., 1968).

Sec. 18.60.190. Effect of regulations. (a) The rules and regulations adopted by the Department of Labor have the force and effect of law. However, the rules and regulations applying to the construction of new boilers and unfired pressure vessels do not prevent their installation until the rules and regulations become mandatory as provided in (b) of this section.

(b) Amendments in the rules and regulations are permissive immediately upon adoption and become mandatory 12 months after adoption. (§ 1(d) ch 132 SLA 1955)

Sec. 18.60.200. New boilers and unfired pressure vessels. A power boiler, low pressure boiler, or unfired pressure vessel which does not conform to the rules and regulations promulgated by the

Department of Labor governing new construction and installation shall not be installed and operated unless it is of special design or construction, and is not covered by the rules and regulations, or is not in any way inconsistent with the rules and regulations, in which case the Department of Labor may issue a special installation and operating permit. (§ 2 ch 132 SLA 1955)

Sec. 18.60.210. Exemptions. (a) Sections 180 — 390 of this chapter do not apply to the following:

(1) boilers and unfired pressure vessels under federal regulation;

(2) unfired pressure vessels meeting the requirements of the Interstate Commerce Commission for shipment of liquids or gases under pressure;

(3) Air tanks located on vehicles operating under the rules of another state authority and used for carrying passengers or freight;

(4) air tanks installed on the right of way of railroads and used directly in the operation of trains;

(5) unfired pressure vessels having a volume of five cubic feet or less when not located in places of public assembly;

(6) unfired pressure vessels designed for a pressure not exceeding 15 pounds per square inch gauge when not located in a place of public assembly.

(b) The following boilers and unfired pressure vessels are exempt from the requirements of §§ 320 — 360 of this chapter:

(1) boilers or unfired pressure vessels located on farms and used solely for agricultural purposes,

(2) steam boilers used exclusively for heating purposes carrying a pressure of not more than 15 pounds per square inch gauge and which are located in private residences or in apartment houses of less than six families;

(3) hot water heating boilers carrying a pressure of not more than 30 pounds per square inch and which are located in private residences or in apartment houses of less than six families;

(4) unfired pressure vessels containing only water under pressure for domestic supply purposes, including those containing air, the compression of which serves only as a cushion or airlift pumping system, when located in private residences or in apartment houses of less than six families;

(5) unfired pressure vessels containing liquefied petroleum gas. (§ 4 ch 132 SLA 1955)

Sec. 18.60.220. Duties of the Department of Labor. The Department of Labor shall

(1) have all violators of §§ 180 — 390 of this chapter prosecuted;

(2) issue, suspend, or revoke for cause, inspection certificates provided for in § 390 of this chapter;

(3) take action necessary for the enforcement of the laws, rules and regulations governing the use of boilers and unfired pressure vessels;

(4) keep a complete record of the type, dimensions, maximum allowable working pressure, age, condition, location, and date of the last recorded internal inspection of boilers and unfired pressure vessels to which §§ 180—390 of this chapter apply;

(5) do acts necessary to carry out the purposes of §§ 180—390 of this chapter. (§ 5 ch 132 SLA 1955)

Sec. 18.60.230. Appointment of deputy inspectors. The Department of Labor shall employ deputy inspectors who have had not less than five years' practical experience in the construction, maintenance, repair, or operation of high pressure boilers and unfired pressure vessels as a mechanical engineer, steam engineer, boilermaker, or boiler inspector, and who have passed the examination provided for in § 290 of this chapter. (§ 6 ch 132 SLA 1955)

Sec. 18.60.240. Appointment and qualifications of special inspectors. In addition to the deputy boiler inspectors provided for in § 230 of this chapter, the Department of Labor shall, upon the request of a company authorized to insure against loss from explosion of boilers and unfired pressure vessels, or upon the request of a company operating unfired pressure vessels, issue to an inspector of the company a commission as a special inspector. However, to be eligible for a commission as special inspector, a person shall satisfactorily pass the examination provided for in § 290 of this chapter, or instead of the examination may hold a certificate of competency as an inspector of boilers and unfired pressure vessels for a state that has a standard of examination substantially equal to that of this state, or may hold a certificate as an inspector of boilers from the National Board of Boiler and Pressure Vessel Inspectors. A commission as a special inspector for a company operating unfired pressure vessels in this state may be issued if, in addition to meeting the requirements in this section, a person is continuously employed by the company for the purpose of making inspections of unfired pressure vessels used or to be used by the company. (§ 7(a) ch 132 SLA 1955)

Sec. 18.60.250. Compensation for special inspectors prohibited. A special inspector is not entitled to any compensation or expenses from the state. A special inspector's commission is conditioned upon his continuing in the employ of a boiler insurance company or a company operating unfired pressure vessels in this state and upon his maintaining the standards imposed by §§ 180—390 of this chapter. (§ 7(b) ch 132 SLA 1955)

Sec. 18.60.260. Duty of special inspectors. Each special inspector shall inspect all boilers and unfired pressure vessels insured or operated by his company. The owner and user of a boiler or unfired pressure vessel inspected by its special inspector is exempt from the payment of the inspection fees provided in § 360 of this chapter. (§ 7(c) ch 132 SLA 1955)

Sec. 18.60.270. Report of inspection. Each company employing a special inspector shall, within 30 days following each internal boiler or unfired pressure vessel inspection by its inspector, file a report of the inspection with the Department of Labor upon forms adopted by the American Society of Mechanical Engineers. The report of an external inspection is not required except when such inspector discloses that the boiler or unfired pressure vessel is in a dangerous condition. (§ 7(d) ch 132 SLA 1955)

Sec. 18.60.280. Right of inspection. The Department of Labor, or a deputy or special inspector shall be given free access, during reasonable hours, to any premises where a boiler or unfired pressure vessel is being constructed, installed or operated, for the purpose of determining whether the boiler or unfired pressure vessel is constructed, installed and operated in accordance with §§ 180—390 of this chapter. (§ 7(e) ch 132 SLA 1955)

Sec. 18.60.290. Examination for deputy and special inspectors. The Department of Labor shall give the examination for the position of deputy inspector or special inspector. The examination shall be in writing. The examination shall be limited to the subject matter which will aid in determining the fitness and competency of the applicant. If an applicant fails to pass the examination, he may appeal to the department for another examination which shall be given by the department within 90 days. The applicant and his employer shall have access to the record of an applicant's examination. (§ 8(a) ch 132 SLA 1955)

Sec. 18.60.300. Revocation or suspension of commission. (a) The Department of Labor may, after investigation, suspend or revoke a commission for (1) incompetence, (2) untrustworthiness, or (3) wilful falsification of any matter or statement in his application or in an inspection report. A person whose commission has been suspended or revoked, except for untrustworthiness, may apply to the Department of Labor for reinstatement or, in the case of a revocation, the person may apply 90 days after revocation for a new examination and commission.

(b) A person whose commission has been suspended or revoked may appeal the suspension or revocation as provided in § 370 of this chapter and is entitled to be present and represented by counsel at the hearing. (§ 8(b) ch 132 SLA 1955)

Sec. 18.60.310. Replacement of lost or destroyed certificate or commission. If a certificate or commission is lost or destroyed the Department of Labor shall issue a new certificate or commission without another examination. (§ 8(c) ch 132 SLA 1955)

Sec. 18.60.320. Inspection of boilers and unfired pressure vessels. (a) Each boiler and unfired pressure vessel used or proposed

to be used in the state except boilers or unfired pressure vessels exempt under § 210 of this chapter shall be inspected as to construction, installation, condition and operation, as follows.

(1) Each power boiler shall be inspected annually both internally and externally while not under pressure and, if possible, shall also be inspected annually externally while under pressure.

(2) Each low pressure heating boiler shall be inspected both internally and externally biennially where construction permits.

(3) Each unfired pressure vessel subject to internal corrosion shall be inspected both internally and externally biennially where construction permits, except that the Department of Labor may, in its discretion, provide for longer periods between inspections.

(4) Each unfired pressure vessel not subject to internal corrosion shall be inspected externally at intervals set by the Department of Labor. However, an internal inspection of each unfired pressure vessel is not required where its contents are known to be noncorrosive to the material of which the shell, head, or fittings are constructed, either from the chemical composition of the contents or from evidence that the contents are adequately treated with a corrosion inhibitor, provided that the vessel is constructed in accordance with rules and regulations of the Department of Labor or in accordance with standards substantially equivalent to the rules and regulations in effect at the time of manufacture.

(b) However, in the case of power boilers a grace period of two months longer than the 12 month period may elapse between internal inspections of a boiler while not under pressure or between external inspections of a boiler while under pressure. In the case of low pressure heating boilers not more than 26 months may elapse between inspections, and in the case of unfired pressure vessels not more than two months longer than the period between inspections prescribed by the Department of Labor may elapse between internal inspections. (§ 9(a) ch 132 SLA 1955)

Sec. 18.60.330. Rules of inspection. (a) Subject to the applicable grace period provided in § 320 of this chapter the Department of Labor may modify its rules and regulations applying to the inspection of unfired pressure vessels to reduce or extend the interval between required inspections where the contents of the vessel or its construction material warrant special consideration.

(b) Each inspection shall be made by a deputy inspector, or by a special inspector provided for in §§ 180—390 of this chapter.

(c) If a hydrostatic test is considered necessary to determine the safety of a boiler or unfired pressure vessel, the test shall be made, at the discretion of the inspector, by the owner or user.

(d) Each boiler and unfired pressure vessel to be installed in the state after the 12 month period from the effective date of the rules and regulations of the Department of Labor shall be inspected during

construction as the rules and regulations require by an inspector holding a certificate from the National Board of Boiler and Pressure Vessel Inspectors, or a certificate of competency as an inspector of boilers for a state that has a standard of examination substantially equal to that of this state as provided in § 290 of this chapter. (§ 9(b) — (e) ch 132 SLA 1955)

Sec. 18.60.340. Inspection certificates. (a) If, upon inspection, a boiler or an unfired pressure vessel complies with the rules and regulations of the Department of Labor, the owner or user shall pay to the deputy inspector a certificate fee to be established by regulation by the commissioner of labor. The Department of Labor shall issue the owner or user an inspection certificate showing the date of inspection and specifying the maximum pressure under which the boiler or unfired pressure vessel may be operated. The inspection certificate is valid for not more than 14 months from its date in the case of power boilers and 26 months in the case of low pressure heating boilers, and for not more than two months longer than the authorized inspection period in the case of unfired pressure vessels. Certificates shall be posted under glass in the room containing the boiler or unfired pressure vessel inspected. If the boiler or unfired pressure vessel is not located inside the building, the certificate shall be posted in a location convenient to the boiler or unfired pressure vessel, or in the case of a portable boiler or unfired pressure vessel the certificate shall be kept in a metal container fastened to the boiler or vessel or in a tool box accompanying the boiler or unfired pressure vessel.

(b) An inspection certificate issued for an insured boiler or unfired pressure vessel inspected by a special inspector is not valid after the boiler or unfired pressure vessel, for which it was issued, ceases to be insured by a company authorized by the state to carry the insurance. (§ 10(a) (b) ch 132 SLA 1955; am § 1 ch 74 SLA 1966)

Effect of amendment. — The 1966 amendment substituted "pay to the deputy inspector a certificate fee to be established by regulation by the commissioner of labor" for "pay the deputy inspector the sum of $2 in the case of a boiler, and $1 in the case of an unfired pressure vessel" at the end of the first sentence of subsection (a).

Sec. 18.60.350. Suspension of inspection certificate. The Department of Labor may suspend an inspection certificate when, in its opinion, the boiler or unfired pressure vessel for which it was issued cannot be operated without menace to the public safety, or when the boiler or unfired pressure vessel does not comply with the rules and regulations. A special inspector has this same power to suspend an inspection certificate for an insured boiler or unfired pressure vessel or an unfired pressure vessel operated by the company employing him. Suspension of an inspection certificate continues in effect until reinstatement. No certificate may be reinstated until the boiler or unfired pressure vessel conforms to the rules and regulations of the Department of Labor. (§ 10(c) ch 132 SLA 1955)

Sec. 18.60.360. Inspection fees. (a) The commissioner of labor shall, by regulation, establish reasonable fees to be charged for the inspection of boilers and unfired pressure vessels. Separate fees may be established for external inspection, internal inspection, shop inspection and hydrostatic tests, and fees may vary depending upon the rated power, heating surface area or cross sectional area of boilers and unfired pressure vessels.

(b) The owner or user of a boiler or unfired pressure vessel which is inspected by a deputy inspector shall pay the deputy inspector, upon completion of the inspection, the appropriate inspection fee established under (a) of this section.

(c) The Department of Labor shall give an official receipt for an inspection fee collected under this section and shall transfer the amount of the fee to the Department of Revenue for deposit in the state treasury. (§ 12 ch 132 SLA 1955; am § 2 ch 74 SLA 1966; am § 1 ch 29 SLA 1968)

Effect of amendments. — The 1966 amendment rewrote this section.

The 1968 amendment substituted "state treasury" for "fund established in § 380 of this chapter" at the end of subsection (c).

Sec. 18.60.370. Appeals. A person aggrieved by an order or act of a deputy inspector may, within 15 days after notice of the order or act, appeal to the Department of Labor. The Department of Labor shall hold a hearing within 30 days of the appeal but shall give at least 10 days' written notice of the hearing to all interested parties. Within 30 days after the hearing, the Department of Labor shall issue an order approving or disapproving the order or act and shall give a copy of the order to all interested parties. Within 30 days after the order of the Department of Labor a person aggrieved may file a petition in the superior court for review. The court shall summarily hear the petition and may make an appropriate order or decree. (§ 14 ch 132 SLA 1955)

Sec. 18.60.380. Creation of boiler fund.

Repealed by § 3 ch 29 SLA 1968.

Editor's note. — The repealed section derived from § 15 ch. 132, SLA 1955; § 3, ch. 74, SLA 1966.

Sec. 18.60.390. Inspection certificate required. It is unlawful for a person to operate a boiler or unfired pressure vessel under pressure without a valid inspection certificate as provided for in §§ 180—390 of this chapter. The operation of a boiler or unfired pressure vessel without an inspection certificate, or at a pressure exceeding that specified in the inspection certificate, is a misdemeanor and the owner, user, or operator is punishable by a fine of not more than $1,000 or by imprisonment for not more than six months, or by both. Each day of unlawful operation is a separate offense. (§ 11 ch 132 SLA 1955)

Cited in College Enterprises, Inc. v. State, 6 Alas. L.J. No. 2, p. 35 (Feb., 1968).

Sec. 18.60.395. Licensing of boiler operators. (a) The Department of Labor shall promulgate regulations for the licensing of boiler operators. The regulations shall conform to the generally accepted nationwide standards and practices established for boiler operators.

(b) Operators' licenses shall be provided in the following categories:

(1) fireman — apprentice,

(2) third class — boiler capacity not to exceed 3,500 pounds an hour,

(3) second class — boiler capacity not to exceed 100,000 pounds an hour,

(4) first class — unlimited.

(c) This section does not require a person to be licensed in order to be a boiler operator. (§ 1 ch 68 SLA 1970)

Article 4. Refrigerators and Similar Equipment.

Section
400. Removal of locks upon discarding
410. New equipment to have opening device on inside
420. Administration of §§ 400—460 of this chapter
430. Inspection of equipment
440. Appeals
450. Violations and penalties
460. Enforcement of article

Sec. 18.60.400. Removal of locks upon discarding. No person may abandon, discard, or throw away an icebox, refrigerator, freezer, or similar equipment which by nature of its use is airtight and equipped with a locking device, unless the door latches or hinges are first removed. Equipment having a capacity of one and one-half cubic feet or less is exempt from the requirements of §§ 400—460 of this chapter. (§ 1 ch 106 SLA 1957)

Sec. 18.60.410. New equipment to have opening device on inside. No person may offer for sale an icebox, refrigerator, freezer, or similar apparatus of more than one and one-half cubic feet capacity equipped with a locking device or latch unless it is equipped with a locking device or latch so constructed that it may be operated by pressure from inside. (§ 2 ch 106 SLA 1957)

Sec. 18.60.420. Administration of §§ 400—460 of this chapter. The Department of Labor shall administer §§ 400—460 of this chapter. It may appoint inspectors and shall inspect all iceboxes, refrigerators, freezers and similar equipment shipped into the state. (§ 4 ch 106 SLA 1957)

Sec. 18.60.430. Inspection of equipment. Every person who sells equipment subject to inspection under §§ 400—460 of this chapter shall permit an authorized inspector to enter the premises where the equipment is stored, or offered for sale, for inspection during reasonable business hours. (§ 5 ch 106 SLA 1957)

Sec. 18.60.440. Appeals. A person aggrieved by an order or act of the Department of Labor or of an inspector under §§ 400—460 of this

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HOUSE BILL NO. 115
Title "An Act relating to boilers and pressure vessels."
Requested by Governor Date January 23, 1981

II. FISCAL DETAIL
Agency Affected Labor
Program Category Affected Public Protection
BRU, Program, or Subprogram(s) Affected Mechanical Inspection
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART TIME						
TEMPORARY						

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

IV. DATE January 23, 1981 PREPARED BY Nico Bus, Finance Officer
AGENCY Labor
PHONE 465-2720

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

33-001 (Rev. 12/80)

HB

124

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 124; Summary

Section 1: The commissioner may adopt regulations to carry out the provisions of AS 16.10.270- 16.10.296.

Section 2: Those operations which neither purchase fish nor hire employees may, after investigation of the commissioner, be granted a waiver from the bonding requirement of AS 16.10.290-296.

Section 3: Those persons required to obtain a bond and fail to do so will be guilty of a class A misdemeanor. Each day a violation occurs constitutes a separate offense.

Section 4: Sections 1 and 3 take effect immediately.

Section 5: Section 2 takes effect December 31, 1981

D R A F T

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would amend the bonding requirements of AS 16.10 which a fish processor or primary fish buyer must meet to qualify for a business license or fisheries business license. The processor, or person engaging or attempting to engage in a "fisheries business" as defined in AS 43.75.140(3) must obtain a fisheries business license under AS 43.75.011. The primary fish buyer must obtain an Alaska business license under AS 43.70.020. The bill would delete the existing provision allowing the processors or buyers to pledge a negotiable security rather than obtain a surety bond, permitting only a surety bond or a cash deposit. The exemption in AS 16.10.290(c) from the requirement of obtaining a bond for a person with property in the state which exceeds $10,000 in value that is unencumbered would also be repealed. This would relieve the Department of Labor from the responsibility of investigating the value and title of the property used as security.

The bonding requirement under this bill could be waived by the commissioner for those small operations that do not purchase fish or hire employees. This bill also would establish a penalty for those processors and buyers who fail to obtain a bond, and autho-

rizes the commissioner of labor to adopt regulations to carry out the purposes of AS 16.10.270 -- 16.10.296.

Sincerely,

Jay S. Hammond
Governor

CSHB 124

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

CLASS "A" MIsdemeanor- Less serious violence a t a person, offenses against property, offenses against public administration, Public Health, and decency, than felonies.

Sentences:

Class "A" Misdemeanor- Not more than a year
Class "B" Misdemeanor- Not more than 90 days

Fines:

Class "A" Misdemeanor- Not more than $5,000
Class "B" Misdemeanor- Not more than $1,000

COMMITTEE REPORT

SENATE

5/5/81

FURTHER: None

Date: 11 MAY 1981

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 124(Res)

purchase of raw fish

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an over view of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeaner) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Divsion of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertantly passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

chapter is grounds for suspension of a fishing license or permit by the Department of Fish and Game. (§ 2 ch 33 SLA 1962)

Article 6. Purchase of Fish.

Section
270. Purchase of fish by the pound
280. Price disputes between fishermen and fish processors
290. Security for collection of wages and payment for raw fish
292. Filing evidence of compliance
294. Suspension and revocation of license
296. Definitions

Sec. 16.10.270. Purchase of fish by the pound. (a) A fish processor or primary fish buyer shall purchase raw fish by the pound. The poundage of the fish to be purchased shall be determined by weighing the fish unless both the buyer and seller agree in writing upon a sample weighing technique which will fairly determine the average weight of the fish purchased.

(b) A person who violates this section is guilty of a misdemeanor and upon conviction is punishable by imprisonment for not more than one year, or by a fine of not more than $5,000, or by both. (§ 1 ch 49 SLA 1965; am § 1 ch 34 SLA 1969; am § 1 ch 102 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "fish processor or primary fish buyer" for "primary buyer" near the beginning of subsection (a).

Legislative committee report. — For report on ch. 34, SLA 1969 (CSHB 40 am S), see 1969 House Journal, p. 142.

Sec. 16.10.280. Price disputes between fishermen and fish processors. In an area where a price dispute exists between at least one-third of the registered commercial fishermen for that area, as certified by the Department of Fish and Game, and fish processors on the price to be paid for salmon, and no agreement has been reached up to 30 days before the opening of the salmon fishing season in that area, a representative from the Department of Labor shall intervene as mediator of the dispute upon request of either party. (§ 1 ch 242 SLA 1970)

Revisor's note (1970). — In ch. 242, SLA 1970, AS 16.10.280 was incorrectly designated AS 16.10.290.

Sec. 16.10.290. Security for collection of wages and payment for raw fish. (a) A fish processor or primary fish buyer shall file with the commissioner of labor a surety bond running to the State of Alaska conditioned upon the promise to pay (1) all persons furnishing labor to a fish processor or primary fish buyer, including contractual employee benefits; and (2) independent registered commercial fishermen for the price of the raw fishery resource purchased from them. The surety or sureties shall be satisfactory, in the determination of the commissioner.

(b) The amount of the bond shall be $10,000. In lieu of the surety bond the fish processor or primary fish buyer may file with the commissioner a cash deposit or other negotiable security acceptable to the commissioner in the amount specified for the bond. If no claim is asserted under this section within two years from the date the bond, cash deposit or other security is filed, the term of the bond, cash deposit or other security shall be two years; if a claim has been asserted within two years, the term of the bond, cash deposit or other security shall be for five years.

(c) A person applying for a license as a fish processor or primary fish buyer who has less than $10,000 in lienable property in the state, with proof of the property satisfactorily made to the commissioner, shall file with the application a bond or other security as specified in this section. No bond is required if the fish processor or primary fish buyer has more than $10,000 in lienable property as specified in this subsection.

(d) Upon certification by the commissioner that a person applying for a license as a fish processor or primary fish buyer has complied with §§ 290 — 296 of this chapter, the Department of Revenue may issue that person a license to engage in the business of fish processor or primary fish buyer.

(e) The commissioner may accept the assignment of a claim held by a person against a fish processor or primary fish buyer under this section and may bring suit upon the bond, cash deposit or other security on behalf of the assignor in the superior court of the judicial district in which the work is done or in any judicial district in which jurisdiction may be obtained. This action shall not be construed to limit the rights of a person having a claim under §§ 270 — 296 of this chapter against a fish processor or primary fish buyer to bring suit upon the bond, cash deposit or other security in his own right, in which case a copy of the complaint shall be served by registered or certified mail upon the commissioner at the time suit is filed. The commissioner shall maintain a record, available for public inspection, of all suits commenced under this subsection. The service shall constitute service on the surety, and the commissioner shall transmit the complaint or a copy of it to the surety within 72 hours after it has been received.

(f) If the surety on the bond desires to cancel the bond, he may do so by giving the commissioner written notice of his intention to cancel. The cancellation is effective 30 days after the notice is delivered to the commissioner.

(g) If a judgment is entered against the cash deposit, the commissioner, upon receipt of a certified copy of a final judgment, shall pay the judgment from the amount of the deposit. (§ 2 ch. 102 SLA 1977)

Sec. 16.10.292. Filing evidence of compliance. A fish processor or primary fish buyer subject to §§ 270 — 296 of this chapter shall initially file evidence of his compliance with the bonding requirements of §§ 290

— 296 of this chapter, in the form prescribed by the commissioner. (§ 2 ch 102 SLA 1977)

Sec. 16.10.294. Suspension and revocation of license. (a) If a final judgment impairs the liability of the surety upon the bond or depletes the cash deposits or other security so that there is not in effect the bond, undertaking cash deposit or other security in the full amount prescribed in § 290 of this chapter, the license of the fish processor or primary fish buyer shall be suspended until the liability in the required amount, unimpaired by unsatisfied judgment claims, has been furnished.

(b) If a bonding company cancels its bond of a fish processor or primary fish buyer, the fish processor's or primary fish buyer's license shall be revoked. He may again obtain a license by complying with the requirements of this chapter.

(c) If a licensed fish processor or primary fish buyer fails to fulfill his obligations as set out in § 290 of this chapter, his license shall be suspended for a period of time the commissioner determines is appropriate. After three suspensions his license may be permanently revoked.

(d) Proceedings to suspend or revoke a license are governed by the Administrative Procedure Act (AS 44.62).

(e) If the commissioner determines that a fish processor or primary fish buyer is acting in violation of §§ 270 — 296 of this chapter, he shall give written notice prohibiting further action by the person as a fish processor or primary fish buyer. The prohibition continues until the person has submitted evidence acceptable to the commissioner showing that the violation has been corrected.

(f) A person affected by an order issued under this chapter may seek equitable relief preventing the commissioner from enforcing the order.

(g) In an action instituted in the superior court by the commissioner or his representative, a person acting in the capacity of a fish processor or primary fish buyer in violation of this chapter may be enjoined from acting as a fish processor or primary fish buyer. (§ 2 ch 102 SLA 1977)

Sec. 16.10.296. Definitions. In §§ 270 — 296 of this chapter, unless the context otherwise requires,

(1) "commissioner" means the commissioner of labor;

(2) "fish" means any species of aquatic fin fish, invertebrates and amphibians, shellfish, or any other raw fishery resource, in any stage of its life cycle, found in or introduced into the state;

(3) "fish processor" means a person engaging or attempting to engage in a business for which a license is required under AS 43.75.010 — 43.75.090;

(4) "primary fish buyer" means a person, other than a cooperative corporation organized under AS 10.15, engaging or attempting to engage in the business of originally purchasing or buying any raw

HB

1458

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT
REAL ESTATE COMMISSION

620 E. 10TH
ROOM 203
ANCHORAGE, ALASKA 99501
PHONE: (907) 272-5508

April 9, 1981

Senator Bob Mulcahy
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

In response to your call requesting a position statement from the commission regarding HB148:

The real estate commission requested that HB148 be introduced to enable the commission to carry out the function dictated by last year's sunset report. The commission was separated from the division of occupational licensing by "sunset" but the funding for the newly created commission BRU was not approved before the legislature adjourned.

The commission feels that the lack of funds is seriously affecting the public welfare by preventing the commission from properly and timely investigating complaints and prosecuting violations. HB148 provides funds to hire an investigator which will alleviate this problem and materially benefit Alaskans.

HB148 also provides funds to move the license examiner to the commission's office in Anchorage which will increase the efficiency of the commission in handling the issuance and transfer of licenses and the maintenance of commission records. The commission is installing an up to date processor to increase the efficiency in maintaining license records. Delay in transferring the license examiner results in more duplication of work when the records are transferred.

The bill also provides for the employment of an additional clerk-typist. The commission has a serious problem in routine paperwork processing and responding to the public because the paperwork processing is constantly interrupted by the "walk-in or phone in" public but "no job is finished till the paperwork is done". The additional position will permit clerical functions and public contact functions to both be carried out satisfactorily without interferring with each other.

This budget also purchases the necessary desks, etc. for the new positions.

This budget also provides funds to pay the balance of the executive director's salary for FY81. The executive director has been in office since July, 1980 but has drawn the salary of the executive secretary due to the lack of funds to fund the change in grade. This change is from range 18 to range 22.

Funds must be approved before the division of personnel will begin to classify the new positions. We have been informed that much of this money will not actually be spent because some positions will take 5 to 6 months to be classified and approved by the division of personnel but the 5 to 6 month period begins only when funds are approved. If this budget is approved we will have an investigator by August or September. If not we will be looking at December or January before the position is filled.

A major effect of passing this bill will be that the commission will consolidate its activities and begin administering them with minimum additional confusion and duplication of efforts due to funding related delays. It will also enable the commission to better protect the public much sooner and more efficiently than will otherwise be the case.

The commission and its staff are ready to assist you in any way possible questions. Please do not hesitate to call upon us if you have any questions.

Sincerely,

Lance Youngquist, Chairman
Alaska Real Estate Commission

LY:ks

cc: Division of Budget and Management

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

HB 148; SUMMARY:

Makes a supplemental appropriation of $44,700 to the Dept. of Commerce and Economic Development for the Real Estate Commission for the Fiscal Year ending June 30, 1981.

HB

159

April 14, 1982

Honorable Nels A. Anderson, Jr.
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Anderson:

Re: House Bill 159

You wrote to our division on April 12, 1982, requesting information about HB 159.

It is true, we have contacted the National Council of Compensation Insurers. We have sent them a copy of the proposed bill and have asked them to put it into their rate calculating methods to see how it would impact the employers' costs for Worker's Compensation. The net result of this computation is that there will be an approximate 9% increase in Worker's Compensation rates as they would apply to the average weekly wage in Alaska.

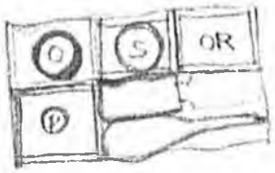
The unscheduled disability going from 60,000 to 75,000 is a very material factor due to the fact that the greatest amount of the Worker's Compensation dollar flows into the partial permanent disability.

Very truly yours,

Kenneth C. Roupe
Director

KCR/sal/13

cc: Charles R. Webber, Commissioner





Section 25 — P. 12 L 8-29, P. 13 L 1-29, P. 14 L 1-24
Schedule disability up approximately 35%
Unschedule disability of 60,000 to 75,000

Rate Impact + 10%

Section 28 — P. 15 L 25 & 26
Burial up from $1,000 to $2,500

P. 9 L 25 & 26
Minimum weekly up from $65 to $110

P. 17 L 1 & 2
Death minimums up from $45 to $75 for widow
from $15 to $25 for child
from $30 to $50 for children

In thousands

Various pages also see Section 30 on page 17 & 18
66 2/3% of injured workers average weekly wage changed to 80% of injured workers spendable wage

Rate Impact - 1%

Rehabilitation — Rate Impact 0%

Total Rate Impact + 9%

Anchorage
CHAMBER of COMMERCE

Crossroads of the Air World

TO: ALASKA STATE LEGISLATORS

FROM: ANCHORAGE CHAMBER OF COMMERCE - BOARD OF DIRECTORS

SUBJECT: HOUSE BILL 159, AN ACT RELATING TO WORKER'S COMPENSATION AND PROVIDING FOR AN EFFECTIVE DATE.

Over the past few years, Alaska has managed to earn the distinction of becoming the state with the highest cost in the United States to employers for Worker's Compensation Insurance.

House Bill 159, in its current form, would create additional burdensome costs to the business community by creating another level of bureaucracy to administer rehabilitation programs at the expense of the business community, which can just as well be provided at much lower costs, and with already existing expertise, by private enterprise insurance carriers and rehabilitation professionals.

This Chamber recommends withholding passage of H. B. 159 in its present form. It is recommended that the legislature explore alternatives which can be developed utilizing private enterprise insurance carriers and rehabilitation professionals without the authority to appoint a new Rehabilitation Bureau. Further, no staff increases funded by the General Fund.

APPROVED this 2nd day of April, 1982.

Al Parrish
President

Frank N. Van Zant
Executive Vice President

Bill No. SCS CSHB 159

Date May 10, 1982

Title "An Act relating to Workers' Compensation; and providing for an effective date."

Contact J. L. McClintock
465-2790

The Department of Labor and the Alaska Workers' Compensation Board support the provisions of SCS CSHB 159. This bill is the result of an agreement reached by a committee representing employers and labor in the state and reflects over two years of hearings in which testimony was provided by workers, labor groups, employers, insurers, rehabilitation experts, physicians, attorneys and state agency personnel. The Workers' Compensation Board and Division worked very closely with the committee in recommending amendments that provide for a more equitable and efficient workers' compensation system.

The major portion of the bill implements a new plan for the vocational rehabilitation and re-employment of industrially disabled workers which will significantly reduce costs of the system to employers while assisting the injured worker in returning to suitable gainful employment as quickly as possible.

Other changes are primarily procedural or administrative in nature and are aimed towards reducing litigation, clarifying ambiguities in the language of the Act and bringing that language into harmony with the interpretations set forth in Court and Board decisions.

POSITION PAPER/Department of Labor

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. Senate CS for CS for House Bill No. 159 (L & C)

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Senate Labor and Commerce Committee Date 4/24/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		61.5	67.7	74.4	81.9	90.0
200 TRAVEL		15.0	16.5	18.2	20.0	22.0
300 CONTRACTUAL		35.7	23.3	25.7	28.2	31.0
400 COMMODITIES		.9	1.0	1.1	1.2	1.3
500 EQUIPMENT		1.6	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	114.7	108.5	119.4	131.3	144.3

FUNDING (Thousands of Dollars)

GENERAL FUND		114.7	108.5	119.4	131.3	144.3
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1.0	1.0	1.0	1.0	1.0
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

Establishment of Rehabilitation Administrator position (new position). Cost $84.1. (See attached form 13 for itemized costs.)

IV. DATE 4/24/82 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $11.1

100 Personal Services	$ 5.5
200 Travel	5.0
300 Indirect	.6
	$11.1

The data processing operations cost will increase by $5.0 because of enhancements for a tickler system, and the files expansion to retain the addresses of all claimants.

The printing of 20,000 Employee Information booklets. $6.0

The design and printing of new forms. $1.5

Computer program modifications to implement the changes introduced by the bill. $7.0

Included one-time items in FY '83

Equipment	$ 1.6
Booklets	6.0
Design and printing of new forms	1.5
Computer programs	7.0
	$16.1

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	ENGAPR.
1	Rehabilitation Administrator			22A		EBA			
2	TYPE OF POSITION: PFT	STAFF MONTHS: 12	RP No.: N/A	PCN No.: New Position	PRIORITY	FORM 12 PAGE/LINE: N/A	LEG.		

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
	PERSONAL SERVICES:			
4	SALARY 3714 x 12		44,568	
5	BENEFITS .1592		7,095	
6	SBS .0613		2,188	
7	FIXED BENEFITS 183 x 2		2,196	
8	TOTAL PERSONAL SERVICES	01		56,047
9	TRAVEL	02		10,000
10	CONTRACTUAL	03		15,607
11	COMMODITIES	04		850
12	EQUIPMENT	05		1,600
13	OTHER			
14	TOTAL COST			84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN FUND 1004	84,104
18		I-A RCPTS. 1007	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	FOR B&M USE ONLY

4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease and Operating Costs $5,600
Indirect (11.46% x 44,568 = $5,107)
Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

Page 1 of 1 REVISED DATE

FY 83

SENATE CS FOR CS FOR HOUSE BILL NO. 159 (L&C)

A BILL

For an Act entitled: "An Act relating to workers' compensation; and providing for an effective date."

SECTION BY SECTION ANALYSIS

Section 1. This section sets forth the legislative intent of AS 23.30.041 as found in section 3.

Section 2. This section forgives contributions by the employer or insurance carrier to the second injury fund in those cases in which the total contribution is less than $20. Contributions of less than $20 result in administrative costs by the carrier and the Division of Workers' Compensation which offset any positive contribution to the second injury fund.

Section 3. This section provides for the administration of rehabilitation and establishes fundamental duties and obligations of the parties. Primary responsibility to provide necessary and appropriate rehabilitation services is the employer's. The Board is charged with adopting regulations which will specify those cases when rehabilitation services are warranted. In the event the employer, or carrier, does not voluntarily offer the rehabilitation services, the Rehabilitation Administrator may retain a rehabilitation provider.

The Rehabilitation Administrator is a new partially exempt position and will be selected and employed by the Board. The intent is to create a strong impartial referee to resolve disputes and provide information prior to entering the rehabilitation process. The administrator's decision may be appealed to the Board by requesting a hearing.

Vocational rehabilitation services are limited to 37 weeks, with an additional 37 weeks allowed if special circumstances exist. The intent is to quickly return an injured worker to gainful employment. Most direct return to work programs and on the job training programs can be accomplished in less than the initial 37 weeks. Temporary total or temporary partial disability compensation shall be paid to an injured worker during the rehabilitation process. Additionally, the amendment provides that the employer shall pay all costs of a rehabilitation plan and establishes standards for the award of an additional $200.00 per month for maintenance.

Section 4. This section adds language necessary because of the addition of AS 23.30.041 found in section 3.

Section 5. This section allows placement of disabled workers who are being rehabilitated for gainful employment into work situations where the employer is willing to pay some wages to the trainee but is not willing to accept the risk of new injury to the handicapped person. The statute presently is limited to situations in which the trainee is not being paid at all. This section also permits the Board to place eligible persons in rehabilitation programs with an employer in the event a request is not made through the Division of Vocational Rehabilitation in the Department of Education. The amendment additionally provides that an employer may elect to assume liability under this section instead of the state.

Section 6. This section deals with the employer's failure to insure and provides authority for the issuance of a stop order if an employer fails to file evidence of insurance or obtain a certificate of self-insurance. It also provides for a civil penalty of $1,000 a day for failure to comply with a stop order, and the employer may not obtain a public contract with the state or a political subdivision of it for three years following the violation.

Section 7. This section provides authority for the Board to establish time limits for the submission of medical reports by physicians treating injured workers.

Section 8. This section deletes language which gives the right to the injured worker to have his physician present, paid for by the employer, at an examination requested by the employer or ordered by the Board.

Section 9. This section directs the Board to adopt and use a schedule determining the existence and degree of permanent impairment consistent with the American Medical Association's Guide to the Evaluation of Permanent Impairment.

Section 10. This section specifically provides for the release of medical and rehabilitation information relative to the worker's injury to the parties upon request.

Section 11. This section removes the "presumption of compensability" contained in AS 23.30.120 if the worker fails to provide notice of the injury to the employer within 30 days of its occurrence.

Section 12. This section provides realistic time frames in the Board hearing process and rids the statute of Board authorization to rule on a claim without benefit of the parties to be heard.

Section 13. This section reflects changes necessary because of amendments to AS 23.30.235 found in section 20.

Section 14. This section clarifies and emphasizes the role of the Board in determining the credibility of witnesses and the weight to be accorded medical testimony and reports. The Board's findings are conclusive, even if the evidence is conflicting or susceptible of contrary conclu-

sions. It is the intent of this section to restore to the Board the decision making power granted by the Legislature when it enacted the Alaska Workers' Compensation Act. Credibility is a difficult area to articulate objective standards. Such factors as demeanor, recollection, bias, and motive are best determined by the fact finding agency and not the reviewing court. Because the Board has a certain amount of expertise, particularly in the area of medicine, it has the ability to assign weight to the testimony or reports of the medical community.

Section 15. This section allows an employer who has advanced or overpaid compensation to be reimbursed by withholding up to 20 percent out of each unpaid installment or installments of compensation due.

Section 16. This section changes the method by which the average weekly wage is determined in all jurisdictions for purposes of computing compensation and provides for a consistent and equitable means to adjust compensation rates for claims being paid to out-of-state recipients.

Section 17. This section clarifies the rules under which compensation rates are adjusted for recipients not residing in Alaska consistent with legislative intent and regulations, insures adequate benefit levels for those recipients and provides for an annual adjustment in the compensation rate commensurate with changes in average weekly wages.

Section 18. This section authorizes the Commissioner of Labor to determine the average weekly wage in jurisdictions in which no average weekly wage is computed by the Secretary of Labor.

Section 19. This section clarifies the relationship between workers' compensation and unemployment benefits. Temporary total and permanent total disability compensation are not consistent with the eligiblity of an injured worker to receive unemployment benefits, and accordingly, are not payable to an injured worker receiving unemployment benefits. This section does not affect the payment of temporary partial or permanent partial disability compensation to a worker who is receiving unemployment benefits.

Section 20. This section changes the instances when compensation is not payable to an injured worker. If the injury is proximately caused by the worker's willful intent to injure or kill himself or another, or by intoxication by the injured worker then compensation is not payable. Under the present act an employer must prove the injury was occasioned soley as a result of the worker's intoxication.

The worker is still aided by the presumption contained in AS 23.30.120 found in section 13 which presumes the injury was not proximately caused by the intoxication of the injured worker. The term proximately caused means legally caused, i.e., a substantial factor.

Section 21. This section provides penalties for persons who willfully make false or misleading statements for the purpose of obtaining or denying workers' compensation benefits.

Section 22. This section provides for criminal sanctions for the failure to secure the payment of workers' compensation.

Section 23. See comment to Section 22.

Section 24. This section provides for new definitions.

"Arising out of and in the course of employment" is limited to exclude activities of a personal nature away from employer provided facilities. The intent is to limit the scope of the "bunkhouse rule" or "remote site doctrine" which has evolved in workers' compensation law.

Specifically excluded from coverage are activities of a personal nature not sanctioned by the employer which occur away from employer provided facilities such as personal hunting trips, travel to and from a job site when employer provided housing at the site is available to the worker, travel to a banking facility when check-cashing facilities are available at the remote site, and similar incidents. Travel to and from a job site provided or required by the employer, recreational activities sanctioned by the employer or activities within the confines of or immediately surrounding the "bunkhouse" or premises, are not excluded from coverage.

"Drugs" are defined to mean a controlled substance as provided by law.

"Suitable gainful employment" provides criteria for determining the need for, and the appropriateness of, rehabilitation or a particular rehabilitation plan.

Section 25. This amendment permits loss reimbursement plans, i.e., deductibles, as other than a deviation under AS 21.39.070.

Section 26. This section designates the Rehabilitation Administrator as a partially exempt position.

Section 27. This section repeals provisions that are unnecessary or inconsistent with proposed legislation.

Section 28. This section requires the board to publish Section 20 and 21 of this Act as part of a document describing the worker's rights and obligations under the Alaska Workers' Compensation Act.

Section 29. This section provides that section 3, 20 and 24 of this Act apply only to injuries sustained after the effective date of this Act.

Section 30. This section provides that the Act takes effect July 1, 1982.

AI ANDERSON

SEC 25 P. 12 L 8-29, P 13 L 1-29, P 14 L 1-24

SCHEDULE DISABILITY UP APPROX 35%

P 14 L 25-26

UNSCHEDULE DISABILITY UP 60 000 TO 75 000

RATE IMPACT + 10%

SEC 28 P 15 L 25+26

BURIAL UP FROM $1000 TO 2500

P 9 L 25+26

MINIMUM WEEKLY UP FROM $65 TO $110

P 17 L 1+2

DEATH MINIMUMS UP FROM $45 TO $75 FOR WIDOW

FROM $15 TO $25 FOR CHILD

FROM $30 TO $50 FOR CHILDREN

VARIOUS PAGES ALSO SEE SEC 30 ON PAGE 17-18

66⅔% OF INJURED WORKERS AVERAGE WEEKLY WAGE CHANGED TO

80% OF INJURED WORKERS SPENDABLE WAGE

RATE IMPACT - 1%

REHABILITATION

RATE IMPACT 0%

TOTAL BILL IMPACT +9%

ALASKA

EXHIBIT II-D

Overall Effect of Increasing the Maximum Weekly Benefit, Effective 1-1-82

Type of Injury	Percentage of Losses*		Effect(%)	
Death	6.1%		+0.2	
Permanent Total	2.3%		+0.02	
Major Permanent Partial	43.1%		+0.1	
(Serious)		(51.5%)		(+0.1)+
Minor Permanent Partial	14.2%		+.04	
Temporary Total	8.4%		+0.2	
(Non-Serious)		(22.6%)		(+0.1)+
Medical		25.9%		0.0
Total		100.0%		+0.1+

*Losses for policies becoming effective during the 24 month period ending 3-31-79 on the 7-1-81 law level and developed to an ultimate basis by serious, non-serious, and medical categories.

+Weighted Average

April 14, 1982

Honorable Nels A. Anderson, Jr.
Alaska State Senate
Pouch V
Juneau, Alaska 99801

Dear Senator Anderson:

Re: House Bill 159

You wrote to our division on April 12, 1982, requesting information about HB 159.

It is true, we have contacted the National Council of Compensation Insurers. We have sent them a copy of the proposed bill and have asked them to put it into their rate calculating me. ods to see how it would impact the employers' costs for Worker's Compensation. The net result of this computation is that there will be an approximate 9% increase in Worker's Compensation rates as they would apply to the average weekly wage in Alaska.

The unscheduled disability going from 60,000 to 75,000 is a very material factor due to the fact that the greatest amount of the Worker's Compensation dollar flows into the partial permanent disability.

Very truly yours,

Kenneth C. Roupe
Director

KCR/sal/13

cc: Charles R. Bebber, Commissioner

Section 25 — P. 12 L 8-29, P. 13 L 1-29, P. 14 L 1-24
Schedule disability up approximately 35%
Unschedule disability of 60,000 to 75,000

Rate Impact + 10%

Section 28 — P. 15 L 25 & 26
Burial up from $1,000 to $2,500

P. 9 L 25 & 26
Minimum weekly up from $65 to $110

P. 17 L 1 & 2
Death minimums up from $45 to $75 for widow (In thousands
from $15 to $25 for child
from $30 to $50 for children

Various pages also see Section 30 on page 17 & 18
66 2/3% of injured workers average weekly wage changed to 80% of injured workers spendable wage

Rate Impact - 1%

Rehabilitation — Rate Impact 0%

Total Rate Impact + 9%

Alaska National
INSURANCE COMPANY

A policy of service and protection

Dick Block

February 24, 1982

Labor and Commerce Committee
House of Representatives
State of Alaska
Pouch Y
Juneau, Alaska 91011

ATT: Honorable Terry Martin, Chairman

RE: HB 159 - Proposed Amendments to the Current Requirements for Reporting to the Division of Workers' Compensation

Dear Representatives:

In the last session, the Legislature adopted in Chapter 59 of 1981 Laws (CSHB 94 (Fin)am) which, among other things, amended Section 155 of the Alaska Workers' Compensation Act to materially extend the requirements imposed upon insurance companies to file reports of current cases with the Workers' Compensation Board.

The legislation went into effect July 11, 1981, and spawned one of the most prolific paper burdens faced by the insurance industry today.

It will be the purpose of this letter to urge the Committee to include in HS 159 the attached proposed amendments which would have the effect of materially reducing the reporting obligations of insurance carriers to the Board, but will recognize the need for continuing the provision of relevant information to claimants.

It is my understanding that the Division of Workers' Compensation, shortly after the adoption of that amendment and I believe pursuant to some discussions prior to the legislative enactment of those provisions, developed an extremely complex computer system for digesting all of the reported information.

At the invitation of Jackie McLintock, the Director of the Division of Workers' Compensation, I visited their office and reviewed the computer system, watched it work and tested the data it contains.

Frankly, I must state to the Committee that the computer system works well, provides a wide array of information and is basically a well conceived interacting data processing system for manipulation and presentation of the data that goes into the computer. Although I am frank to admit the workability of the system, I have no information as to its cost or as to the practicality of its function except as I will set forth below.

7001 Jewel Lake Road • Post Office Box 3440, Anchorage, Alaska 99510 • Telephone (907) 248-2642 • Telex (090) 25-456

Shortly after the adoption of the legislation, the Division of Workers' Compensation promulgated some early proposed instructions on how to prepare the necessary forms to make the system operative. The book which is 107 pages long explains in intimate detail how to fill out each of the blanks on each of the several forms.

Even with our limited experience in handling workers' compensation claims under the new system, we can tell you that the precision that is required in filling these forms out and the time consumed in answering the several questions contained on these complex forms is enormous. There is even a provision in the statute and implemented by the Division's set of instructions that requires a form be filed on the anniversary date of the claim even though there has been no change in the status of that claim.

We have two very serious concerns about this new law and the way it is being administered:

1. There is an overriding major concern which we have concerning the recent activities and proposals from the Division of Workers' Compensation and the Board. It is our belief that primary responsibility for the day to day management of all workers' compensation claims lies with the insurance carrier or the self-insurance workers' compensation claims administrator. The Division of Workers' Compensation should exercise its responsibility to resolve disputes through the Board hearing process. We also recognize that the Division of Workers' Compensation has a responsibility to assure that the system is working equitably.

   Although we recognize that the Division has specific complaints about particular insurance carriers' handling of some claims, or the handling of some claims by workers' compensation self-insurance claims administrators, we believe that on balance most all of the workers' compensation claims in the state are being handled quickly and fairly and in accordance with the law. The Division of Workers' Compensation has authority, as does the Division of Insurance, to investigate insurance carriers and workers' compensation self-insurance claim administrators and to review claim files to determine that they are being handled properly, and we believe that to be a more effective enforcement mechanism than inordinate reportings by all carriers in all cases.

   We reject the notion that the Division of Workers' Compensation should thrust itself into the position of becoming the entity primarily responsible for assuring the rights of the injured worker. If that is carried to its logical extreme, the Division of Workers' Compensation will have as many claim adjusters as there are in the whole industry.

It is our view that the Division of Workers' Compensation, the Board and the Division of Insurance need to have the ability to audit for compliance with the laws and the tools to enforce the laws, but they should not be put into the position of usurping the responsibilities of the private insurance sector in the day to day handling and administering of a very complex act.

2. The whole new reporting mechanism is adding a substantial burden of time and expense to the already expensive cost of handling a workers' compensation case. This additional cost must be loaded into the price of workers' compensation insurance and passed on to the employers. This ordinarily would prove to be no problem to the insurance carrier, however, we are concerned that with the substantially increasing costs on the benefit side of the premium dollar, more and more employers are being forced into alternatives to purchasing workers' compensation insurance. While we cannot attribute last year's legislation and the implementation by the Division of Workers' Compensation concerning these reports as the sole contributing factor to these phenomena, we have observed that the overall increase in cost for workers' compensation has driven employers to either:

   a. Ignore the law and not purchase workers' compensation insurance;

   b. Force themselves in some way to qualify for self-insurance status to avoid having to purchase insurance;

   c. Become involved with groups or alternatives to purchase of single insurance with questionable financial responsibility, or

   d. In some cases go out of business.

While we recognize that there ought to be periodic reconsideration of the benefit structures and a balancing in light of new public policy of the interest of the injured workers against the cost to employers, we do not feel that it is appropriate to continually increase the expense of the system unless there is some compelling reason to impose new administrative burdens.

We are, of course, concerned that in the last month or so in which the reports have been submitted to the Division, I have been given to understand that the Division has returned forms for minor technical errors and has indicated to the insurance carrier that until the forms were resubmitted correctly the penalty periods would be running. The impact is that for minor technical flaws in filling out the report an insurance carrier could be subjected to severe financial penalties.

We think it is ludicrous that an insurance carrier could be penalized more for failure to submit a report to the Board than for failure to submit the payment to the injured employee.

I have made some effort to try to determine what value this new computer system offers injured workers in the State of Alaska or the Division of Wor ers' Compensation.

The Division is quick to offer several specific examples of how they have been able to use the terminal access facility to answer questions of claimants who make phone calls to the Division. They also indicate that at some point in time the computer system will enable them to digest data for statistical purposes and also enable them to have immediate access to benefit history for a claimant in order to evaluate compromise and release agreements and other matters coming before the Board.

We believe that the limited value derived from having the computer available does not warrant its substantial expense.

Values of The System

1. Ability to answer claimant's questions.

   It is indeed of some value to have access to the history of claim payments when a claimant asks a question of the Division of Workers' Compensation. It should be observed, however, that first not all of the claim payment history is or ever will be in the computer since only changes in payments are required to be reported except at anniversary time. Accordingly, when claimants call prior to an anniversary date only inadequate data will be on the computer and it still will be necessary for the Division to refer a claimant to his insurance carrier to get the full information. Furthermore, the frequency of claimant inquiries at the Division, which they regard as substantial, is miniscule when compared to the number of injured workers in the workers' compensation system.

2. Statistical Data

   It is true that the Division has been asked by the legislature and by interested groups to provide statistics on frequency and severity of loss by different classifications in the State of Alaska. In fact, while I was Director of the Insurance Division, I argued that the Division of Workers' Compensation should have that information and in the Richard L. Block & Associates' report of 1980 I recommended that the Division have access to that information. My position in this regard has not changed, and I believe it is appropriate that the Division be able to accumulate relevant statistical information on accident frequency and severity. The computer system which they have devised certainly has the capacity for accumulating that data,

but I would point out that absolutely none of the interim reports filed by the carrier contribute in any way to that information. The only information submitted by a carrier which could be used for statistical purposes is the first notice to the Board of the existence of the accident and the last report filed by the carrier which gives a complete description and evaluation of payments, benefits, cause of loss, etc.

3. Ability to evaluate the propriety of compromise and release claims and other inquiries made by the parties.

The value that the computer will have to determine the propriety of matters coming before the Board on specific cases is, at best, questionable. The fact is that compromise and release claims are submitted to the Board for a variety of factors only a minority of which have anything to do with the amount of payments which have in fact been made to date. A compromise and release agreement submitted to the Board must be approved on the merits of each individual case based on information only some of which will be statistical or financial submitted by the employer and the employee. It is ludicrous to establish a complex computer system to accumulate data on every single claim processed in the State of Alaska in order to provide a facility to approve the few lump sum compromise and release agreements submitted to the Board when those submitting those agreements can provide that information themselves.

Cost of The System

There is little available information on the true cost of operating this computer system, however, a review of the Division's budget would indicate that there are several employees either in the Division of Administration or in the Division of Workers' Compensation who have dedicated their time to processing the paper work to make the computer system operative.

In addition and not reflected in the Division of Workers' Compensation's budget is the computer time and computer programming costs which would be more properly buried in the Data Processing Division's budget.

Further, there is the time of employees devoted to working the system for interested inquirers.

I have been advised by Jackie McLintock that they are up to date currently in processing the paper work which has come in; but, as the system becomes more mature and claim frequencies increase, there is going to have to be a substantial additional burden placed on the Division of Workers' Compensation to process all of these reports. After all, if there are to be three or four reports for every claim, then the claim

processing capabilities of the Division of Workers' Compensation would have to essentially be equal to the claim data processing capabilities of all of the carriers processing workers' compensation claims in this state at any point in time.

It is our conclusion that this expense, whatever it may be, is not justified to obtain the limited benefits which are gained from that system.

There are some other issues upon which I can only speculate.

I did observe in reviewing the system that there is a substantial amount of confidential information in the computer. I am troubled by the fact that because it is in the possession of the State it comes under the freedom of information provisions and thus the privacy of every workers' compensation claimant is potentially violated. It is possible, for example, for anyone to go into a Department of Labor office and ask for information concerning a claimant and find out his wages, what physicians he has been seeing in connection with his injury, what his workers' compensation entitlements are and other pertinent information, all of which would not be available if the information were not filed with the State.

I was interested to observe also that the Division is maintaining a master list of attorneys and keying each attorney into the cases he is handling. It is thus possible to write a program to access a report showing all fees paid to the lawyers in the State, who their clients are and other information which I believe the members of the Bar would be concerned to learn is now publicly available information. Each lawyer is now designated in the system as an employers' lawyer or an employees' lawyer.

A further collateral issue has to do with the maintenance of the law digest portion of their program.

Frankly, the work done in preparing the law digest function on the computer appear to be extremely well done, and they are to be complimented for putting together a very good program. My concern is not that they have built this aspect of the system, but rather they have concentrated their efforts on making available to their own internal staff an excellent means of accessing opinions of the Workers' Compensation Boards in order to help draft future opinions, but they have devoted no time whatsoever to making printed versions of the workers' compensation opinions available to anyone else.

The history of access to Board opinions in this regard is that for those lawyers who had contacts with the Juneau office, photo copies of mimeographed versions of their opinions could be obtained; but no one else in the State could have access to them except the parties to each case. Now I understand that the Juneau office will not make them available even to lawyers in Juneau. This means that the Board intends to rely on prior cases in drafting its future opinions, but the lawyers who must argue before the Boards will not have access to those opinions in any way. It seems to me that it would be more appropriate for the Division of Workers' Compensation to have created a facility to make the opinions available to a private publishing firm in Alaska, who could have developed the digest and made it commercially available to all lawyers and other interested parties. It may be that the Division is considering making the opinions and the digest available to interested parties which would be a step forward, but it strikes me as completely inappropriate that such a function that could be well done by private concerns is being done by a state agency.

Alternative Suggestion

While I believe it is inappropriate for the State to be accumulating this information, there are certain things which I do believe are appropriate for the employee to have and it is interesting to note that no one has drafted any statute requiring this information be made available to the employee. It is true that in the set of instructions promulgated by the Board, they ask that the original report go to the employee.

It is further our concern that the reports are so complex that in their current form they are probably more confusing to the employee then they are helpful.

I attach a proposed alternative to be included in Section 155.

Its salient points are these:

1. The carrier must report to the employee at every change in compensation.

2. The form upon which such reports are made to the employee must meet minimum standards established by the Board but are not prepared on Board forms. This will permit each carrier to design a simple form which meets minimum standards but which are readable and understandable by the claimant.

3. There are penalties imposed upon the carrier for not submitting the reports in a timely fashion, but instead of the penalties being automatic they are imposed upon application by the employee, are paid to the employee and are determined ultimately by the Board.

4. The Board will receive only a first notice from the carrier acknowledging receipt of some information concerning the existence of a claim and a final notice which provides whatever statistical information the Board believes is relevant to monitoring the workers' compensation system. This, of course, is in addition to the notice of injury submitted by the employee.

It is our opinion that with the information the Board will be in a position to know all claims have been acknowledged by a carrier and who that carrier is, enabling the Board to refer an injured worker to the proper person handling the workers' compensation claim should any inquiries come to the Division of Workers' Compensation.

Under current law, which we do not propose be changed, an injured worker could file a specific request for hearing before the Board on their workers' compensation claim if they feel they are not being treated properly by the carrier, or may file a claim with the Division of Insurance to investigate whether the insurance company is properly handling the workers' compensation claim and giving it its due attention.

All of the interim reports currently required by Section 155 to be filed with the Board by the carrier would be eliminated.

We regard the change in direction as extremely important and hope the Committee will see fit to adopt the proposed amendment.

Yours cordially,

Richard L. Block
President

RLB/crl

23.30.155 (c) Repeal

23.30.155 (h) Repeal

23.30.155 (m) Repeal

23.30.155 (g) Add

(i) Within 14 days after receipt of any document which evidences the existence of a claim under this Act, the employer or carrier shall file with the Board and provide to the employee an acknowledgment of claim which shall be on a form prescribed by the Board and which shall be for the purpose of providing both the Board and the claimant with the name and point of contact in the state of Alaska for information concerning the claim, proposed disposition of the claim, and claimants rights and entitlements under the Act.

(ii) The employer shall notify the claimant of any change in compensation to be paid to claimant. The notice shall be delivered to claimant within 14 days after a last payment before termination or suspension of payments, or with any payment that is less than, more than or being paid pursuant to a different statutory entitlement than any previous payment or which is a resumption of payments. The notice shall be on a form prepared by the employer but which meets minimum standards set by the Board and shall contain:

1) Nature of the change in payment.

2) Reason for the change.

3) Amount of the change.

4) Method of calculation.

5) Statutory entitlement being paid, terminated, suspended or modified.

(iii) Within 14 days after final payment of compensation has been made, the employer shall send to the Board a notice on a form prescribed by the Board stating:

1. Reason for closing the case

2. Total amount paid for compensation, medical, rehabilitation and allocated loss expense.

3. Other statistical information as is necessary to determine accident frequency and severity, trends, and which is prescribed by regulation.

4. Other information which the Board determines necessary to properly administer the workers' compensation system.

(iv) If the employer fails to notify the employee, the Board, upon application of the employee, may assess a civil penalty, payable to the employee of up to $100.00 for each notice not timely rendered.

GENE A. KREMER, D.C.
President
3020 Minnesota Drive Suite 10
Anchorage, Alaska 99503
279-2522

TREVOR V. IRELAND, D.C.
Vice President
541 West 36th Avenue
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279-1468

JULIAN VICKERS, D.C.
Secretary
551 West Dimond Blvd.
Anchorage, Alaska 99502
349-4502

KENNETH O. KETZ, D.C.
Treasurer
3330 C Street
Anchorage, Alaska 99503
274-7621

April 16, 1982

Senator Bob Mulcahy,
Senate Commerce Committee,

Dear Senator Mulcahy:

I am forwarding the following objections to CSHB, 159, (L & C) and recommended changes.

Section 9, paragraph C, line 14, and following the time set by the Board for notice of subsequent treatments.

This change would increase the Board's authority and potentially cause increase cost if the Board requested reporting requirements. The 1981 version of HB 159 requested reporting after every patient treatment. Research indicated an increase of approximately half a million dollars to the providers in an estimated 100 offices alone, if the 1981 version passed. While the 1982 version has been "soften" the same potentional effect could occur.

Since a provider will not get paid from the Workmen's Compensation Carrier unless a report is sent, seems to be enough incentive to report timely.

Page 6, section 10, line 27. Should read:

> Physician or surgeon authorized to practice (medicine) under the laws of ____ the word medicine should be deleted.

Page 6,7, line 29 and 1.

> (The employee has the right to have a physician paid for by the employer, present at the examination or examinations). This clause is scheduled to be deleted. This should be left in the Original language of the bill. There is no supportive evidence why this clause should be removed.

Section 16, page 9, line 29, 1, 6. Credibilty of Witness.

This section gives too much authority to the Board. With a jury trial you have the right to have a prejudice juror removed. Workmens Compensation Members are not unbias individuals. Board Members cannot be challenged when they have biased opinions. Why should the Workmens Compensation Board have greater powers or be given special privilges beyond other boards and commission in this State. We object to this new section being added. Please delete section 23,30, 122 in its entirety.

Thank you for your consideration.

Sincerely,

Adrian G. Barber D.C.
Chairman of Legistative Committee.
Alaska Chiropractic Society

AGB/ez

1. Assumes an inflation rate of 10% per annum after FY '83.

2. Assumes an effective date of July 1, 1982.

3. The total cost for FY'83 for the four new positions is detailed on attached forms 13. In addition the following items are included in the FY '83 costs.

A Workers' Compensation Officer I reclassification to a Workers' Compensation Officer II with related travel and contractual services. Cost $16.6

100 Personal Services	$ 5.5
200 Travel	5.0
300 Auto, Lease, Indirect, etc.	6.1
	$16.6

The data processing operations cost will increase by $14.0 because of enhancements for a tickler system, running two systems parallel and the files expansion to retain the addresses of all claimants.

The printing of 10,000 Workers' Compensation Acts and 25,000 Employee Information booklets. $35.0

The design and printing of new forms. $2.5

Computer program modifications to implement the changes introduced by the bill. $20.0

Equipment expense for computer terminals, panelling, cabinets, and files. $6.0

Included one-time items in FY '83

Equipment	$10.4
Booklets and Acts	35.0
Design and printing of new forms	2.5
Computer programs	20.0
	$67.9

Funding Change

Items included in the FY 83 Governor's budget that will change funding sources from General Fund to the Second Injury Fund.

4 positions (including benefits)	$141.3
Non-personal service costs relating to these 4 existing positions	
200: travel	9.9
300: contractual	25.8
400: commodities	2.3
	179.3

FY'83 Component Breakdown:

Workers' Compensation Administration		Second Injury Fund
PS		$161.8
Travel		20.0
Contract*	$47.0	75.3
Commodities		3.4
Equipment		10.4
TOTAL	$47.0	$270.9

Funding	General Fund	Second Injury
Funding transfer	(179.3)	179.3
Rehabilitation Services/ delivery system	47.0	270.9
	(132.3)	450.2

*$35,000 Workers Compensation Acts and Information Booklets; $12,000 Data Processing

**Second Injury Fund is currently being reviewed to determine whether revenues are sufficient to cover the cost of rehabilitation. It may be necessary to amend AS 23.30.040 to increase the maximum percentage contribution rate.

DM-13

	POSITION TITLE				RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Rehabilitation Administrator				22A		EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY		FORM 12 PAGE/LINE			
2	PFT	12	N/A	New Position			N/A	LEG		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES SALARY 3714 x 12	44,568	
5	BENEFITS .1592	7,095	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		56,047
9	TRAVEL 02		10,000
10	CONTRACTUAL 03		15,607
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,600
13	OTHER		
14	TOTAL COST		84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	84,104
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
    Auto Lease & Oper... Costs $5,600
    Indirect (11.46% x ... = $5,107)
    Other costs which include communications, equipment rental, etc., $1,800
11. Commodities. Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

Page 1 of 4 REVISED DATE

FY 83

01 1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Rehabilitation Administrator			22A		EBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	Ltd.		
2	PFT	12	N/A	New Position		N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 3714 x 12	44,568	
5	BENEFITS .1592	7,095	
6	SBS .0613	2,188	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		56,047
9	TRAVEL 02		10,000
10	CONTRACTUAL 03		15,607
11	COMMODITIES 04		850
12	EQUIPMENT 05		1,600
13	OTHER		
14	TOTAL COST		84,104

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	84,104
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

14A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The rehabilitation administrator is necessary to develop and implement a workers' compensation rehabilitation program designed to administer and monitor the rehabilitation benefits of industrially injured workers covered by the Alaska Workers' Compensation Act.

Extensive travel within the state is necessary to provide assistance to approximately 12,000 employers in developing programs for re-employment of injured workers and coordinating counselor services with workers, insurers/employers, labor unions, and rehabilitation providers.

9. Travel: $10,000 (20 trips @ $500 per trip)
10. Contractual: Space $3,100 (to be transferred to DOA)
    Auto Lease & Operating Costs $5,600
    Indirect (11.46% x 44,568 = $5,107)
    Other costs which include communications, equipment rental, etc., $1,800
11. Commodities: Cost per position
12. Equipment: Desk, desk chair, side chairs, bookcase, file - $1,600

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE

FY 83

01-1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT.	LOCATION	GOV.	APPROV.	DISAPP.
1	Workers Compensation Officer II			18A	GBU	JBA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		
2	PFT	12	N/A	New Position		N/A			

	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES:		
4	SALARY 3249 x 12	38,988	
5	BENEFITS .1592	6,207	
6	SBS .0613	2,188	
7	FIXED BENEFITS .83 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		49,579
9	TRAVEL 02		5,000
0	CONTRACTUAL 03		14,968
1	COMMODITIES 04		850
2	EQUIPMENT 05		1,395
3	OTHER		0
4	TOTAL COST		71,792

	RECEIPT CODE	FUNDING SOURCE	
5		FED RCPTS. 1002	
6		GF MATCH. 1003	
7	100	GEN. FUND 1004	
8		I-A RCPTS. 1005	
9		PGM. RCPTS 1028	
0	841	OTHER Second Injury Fund	71,792
	CONTINUATION		
	ADDITION	X	

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MA-KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The workers' compensation officer is necessary to coordinate with workers, employers, insurers and rehabilation providers to expedite the retraining and reemployment of injured workers. Travel within the Fairbanks and Northern regions will be necessary to coordinate this effort.

9. Travel: $5,000 (10 trips @ $500 per trip)

10. Contractual: Space $3,100 (to be transferred to DOA)
Auto Lease, Maintenance Agreement & Operating Costs $5,600
Indirect Costs (11.46% x 38,988 = $4,468)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair, side chair, file, worktable, bookcase $1,395

NCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE

FY 83

	POSITION TITLE			PCN No.	RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk Typist III				8B	GBU	AWA			
2	TYPE OF POSITION: PFT	STATE MONTHS: 12	HP No.: N/A	New Position	PRIORITY		FORM 12 PAGE/LINE: N/A	LEG.		

3	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
4	PERSONAL SERVICES: SALARY 1530 x 12	18,360	
5	BENEFITS .1592	2,923	
6	SBS .0613	1,125	
7	FIXED BENEFITS 183 x 12	2,196	
8	TOTAL PERSONAL SERVICES 01		24,604
9	TRAVEL 02		
10	CONTRACTUAL 03		7,004
11	COMMODITIES 04		850
12	EQUIPMENT 05		700
13	OTHER		
14	TOTAL COST		33,158

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1078	
20	841	OTHER Second Injury Fund	33,158
21	CONTINUATION		
22	ADDITION	X	

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4A KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk III position will provide clerical assistance to the Workers' Compensation Officer in the Juneau Second Injury Fund office and will be responsible for providing and coordinating distribution of information from the claim files to the other regions.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x 18,360 = $2,104)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk, desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION

REVISED DATE _____

FY 83

01-1136 (7/81)

	POSITION TITLE			RANGE/STEP	BARG. UNIT	LOCATION	GOV.	APPROV.	DISAPP.
1	Clerk IV			9B	GBU	ERA			
	TYPE OF POSITION	STAFF MONTHS	RP No.	PCN No.	PRIORITY	FORM 12 PAGE/LINE	LEG		
2	PFT	12	N/A	New Position		N/A			

	TYPE OF EXPENDITURE			AMOUNT
	1		2	3
4	PERSONAL SERVICES: SALARY 1627 x 12		19,524	
5	BENEFITS .1592		3,108	
6	SBS .0613		1,197	
7	FIXED BENEFITS 183 x 12		2,196	
8	TOTAL PERSONAL SERVICES	01		26,025
9	TRAVEL	02		0
10	CONTRACTUAL	03		7,137
11	COMMODITIES	04		850
12	EQUIPMENT	05		700
13	OTHER			
14	TOTAL COST			34,712

	RECEIPT CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17	100	GEN. FUND 1004	
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20	841	OTHER Second Injury Fund	34,712
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

4A KEY NUMBER ..... COLUMN NO. .....

JUSTIFICATION:

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

The Clerk IV position will provide clerical assistance to the Rehabilitation Administrator and Workers' Compensation Officer and will be responsible for maintaining follow-up on all rehabilitation files.

10. Contractual: Space $3,100 (to be transferred to DOA)
Indirect (11.46% x $19,524 = $2,237)
Other costs which include communications, equipment rental, etc. $1,800

11. Commodities: Cost per position

12. Equipment: Desk and desk chair $700

AGENCY Labor PROGRAM Worker Protection

BRU Workers' Compensation

COMPONENT Second Injury Fund

13 REQUEST FOR NEW POSITION.

Page 4 of 4 REVISED DATE

FY 83

I. REQUEST

Bill/Resolution No. Committee Substitute for House Bill No. [illegible]9 (L & C) (1 of 3)

Title "An Act relating to workers' compensation, and providing for an effective . . ."

Requested by Labor and Commerce Committee Date 3/1/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Workers' Compensation

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		161.8	178.0	195.8	215.4	236.9
200 TRAVEL		20.0	22.0	24.2	26.6	29.3
300 CONTRACTUAL		122.3	71.3	78.4	86.2	94.9
400 COMMODITIES		3.4	3.7	4.1	4.5	4.9
500 EQUIPMENT		10.4	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	317.9	275.0	302.5	332.7	366.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	(132.3)	(197.2)	(215.9)	(238.6)	(262.5)
FEDERAL FUNDS						
OTHER (Specify Fund Source)						
**Second Injury Fund		450.2	472.2	519.4	571.3	628.5

POSITIONS

FULL TIME	0	4	4	4	4	4
PART TIME						
TEMPORARY						

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

It is the intent of the Legislature that an injured worker receive rehabilitation services which enhance returning to work as quickly as possible at earnings as close as possible to the worker's gross earnings at the time of the injury. The implementation of a delivery system to provide timely and adequate rehabilitation services is fundamental in meeting this objective.

This fiscal note provides that the state administrative costs for rehabilitation under the proposed AS 23.30.041 be paid from the Second Injury Fund. This includes the costs of four new positions, plus the cost of four existing positions which entails a transfer in funding source from General Funds to Second Injury Funds.
(Continued page 2)

IV. DATE 3/2/82 PREPARED BY Nico Bus

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HB

214

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 214 am:

Pertains to circumstances in which there is no designated beneficiary, living at the time of the insured persons death, and increases the amount from $500 to $4,000 for which any person, determined by the insurer, is entitled to receive payment for expenses incident to the last illness, death, or funeral of the person insured. This right is to be reserved by the insurer and set out in the insurance certificate.

Amends AS 21.40.160 relating to the payment of insurance benefits.

COMMITTEE REPORT

SENATE

FURTHER: Judiciary

3/31/81

Date: 11 MAY 1981

Mr. President:

The Committee on LABOR & COMMERCE has had HB 214 am payment of proceeds due under life insurance policies

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an over view of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 12[illegible], addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeaner) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Divsion of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertantly passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

force for two years from its date of issue; and that no statement made by a person insured under the policy relating to his insurability may be used in contesting the validity of the insurance with respect to which the statement was made after the insurance has been in force for a period of two years during the person's lifetime or unless it is contained in a written instrument signed by him. (§ 1 ch 120 SLA 1966)

Sec. 21.48.130. Application. The group life insurance policy shall contain a provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be considered representations and not warranties, and that no statement made by a person insured may be used in a contest unless a copy of the instrument containing the statement is or has been furnished to the person or his beneficiary. (§ 1 ch 120 SLA 1966)

Sec. 21.48.140. Insurability. The group life insurance policy shall contain a provision setting out the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage. (§ 1 ch 120 SLA 1966)

Sec. 21.48.150. Misstatement of age. The group life insurance policy shall contain a provision specifying an equitable adjustment of premiums or of benefits or of both to be made if the age of a person insured has been misstated, the provision to contain a clear statement of the method of adjustment to be used. (§ 1 ch 120 SLA 1966)

Sec. 21.48.160. Payment of benefits. The group life insurance policy shall contain a provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy if there is no designated beneficiary as to all or a part of the sum living at the death of the person insured, and subject to any right reserved by the insurer in the policy and set out in the certificate to pay at its option a part of the sum not exceeding $500 to any person appearing to the insurer to be equitably entitled to it by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured. (§ 1 ch 120 SLA 1966)

Sec. 21.48.170. Certificate. The group life insurance policy shall contain a provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate listing the insurance protection to which he is entitled, to whom the

HB

252

SENATE AMENDMENT

By Judiciary Committee

To: Senate Secretary SENATE BILL No. _____

To: _____ HOUSE BILL No. 252 (Jud) am

PAGE: 1 LINE: 19

Insert "landlord or" between "the" and "tenant".

rental of dwelling units and the rights and obligations of landlord and tenant;

(2) encourage landlord and tenant to maintain and improve the quality of housing; and

(3) make uniform the law among those states which enact it. (§ 1 ch 10 SLA 1974)

Legislative committee report. — For report on ch. 10, SLA 1974 (SCSCSHB 226), see 1974 Senate Journal, p. 20.

Article 2. Rental Agreements.

Section	Section
20. Terms and conditions of rental agreement	50. Separation of rents and obligations to maintain property forbidden
30. Effect of unsigned or undelivered rental agreement	60. Sublease and assignment
40. Prohibited provisions in rental agreements	

Sec. 34.03.020. Terms and conditions of rental agreement. (a) The landlord and tenant may include in a rental agreement, clauses and conditions not prohibited by this chapter or by law, including rent, terms of agreement, and other provisions governing the rights and obligations of the parties.

(b) In the absence of agreement, the tenant shall pay as rent the fair rental value for the use and occupancy of the dwelling unit.

(c) Rent shall be payable without demand or notice at the time and place agreed upon by the parties. Unless otherwise agreed, rent is payable at the dwelling unit. Unless otherwise agreed, rent is payable at the beginning of any term of one month or less and otherwise in equal monthly installments. Unless otherwise agreed, rent shall be uniformly apportionable from day to day and shall be paid on the date the periodic tenancy begins and payable on or before the same date of each and every month thereafter until the tenancy terminates.

(d) Unless the rental agreement fixes a definite term, the tenancy shall be week to week in the case of a tenant who pays weekly rent, and in all other cases month to month. (§ 1 ch 10 SLA 1974)

Sec. 34.03.030. Effect of unsigned or undelivered rental agreement. (a) If the landlord does not sign and deliver a written rental agreement signed and delivered to him by the tenant, acceptance of rent without reservation by the landlord gives the rental agreement the same effect as if it had been signed and delivered by the landlord.

(b) If the tenant does not sign and deliver a written rental agreement signed and delivered to him by the landlord, acceptance of possession and payment of rent without reservation gives the rental agreement the same effect as if it had been signed and delivered by the tenant.

(c) If a rental agreement given effect by the operation of this section

provides for a
year. (§ 1 ch 1

Sec. 34.03.
No rental agre
(1) agrees
chapter;
(2) authoriz
the rental agr
(3) agrees
landlord or te
or tenant for t
(4) agrees t
(b) A provi
agreement is
rental agreem
the other part
10 SLA 1974)

Sec. 34.03.
property for
trust deed, or
free of the ob
SLA 1974)

Sec. 34.03.
agreed in writ
rental agreem
(b) The ten
agreement to
consent, whic
of this sectio
enforceable.
(c) When t
sublease or a
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provides for a term longer than one year, it is effective only for one year. (§ 1 ch 10 SLA 1974)

Sec. 34.03.040. Prohibited provisions in rental agreements. (a) No rental agreement may provide that the tenant or landlord

(1) agrees to waive or to forego rights or remedies under this chapter;

(2) authorizes a person to confess judgment on a claim arising out of the rental agreement;

(3) agrees to the exculpation or limitation of any liability of the landlord or tenant arising under the law or to indemnify the landlord or tenant for that liability or the costs connected with it;

(4) agrees to pay the landlord's attorney fees.

(b) A provision prohibited by (a) of this section included in a rental agreement is unenforceable. If a landlord or tenant wilfully uses a rental agreement containing provisions known by him to be prohibited, the other party may recover the amount of his actual damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.050. Separation of rents and obligations to maintain property forbidden. A rental agreement, assignment, conveyance, trust deed, or security instrument may not permit the receipt of rent free of the obligation to comply with § 100(a) of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.060. Sublease and assignment. (a) Unless otherwise agreed in writing, the tenant may not sublet his premises or assign the rental agreement to another without the landlord's consent.

(b) The tenant's right to sublease his premises or assign the rental agreement to another shall be conditioned on obtaining the landlord's consent, which may be withheld only upon the grounds specified in (d) of this section; no further restrictions on sublease or assignment are enforceable.

(c) When the rental agreement requires the landlord's consent for sublease or assignment, the tenant may secure one or more persons who are willing to occupy the premises. Each prospective occupant shall make a written offer signed and delivered by him to the landlord, containing the following information on the prospective occupant:

(1) name, age and present address;

(2) marital status;

(3) occupation, place of employment, and name and address of employer;

(4) number of all other persons who would normally reside with the prospective occupant;

(5) two credit references, or responsible persons who will confirm the financial responsibility of the prospective occupant; and

(6) names and addresses of all landlords of the prospective occupant during the prior three years.

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

(1) insufficient credit standing or financial responsibility;

(2) number of persons in the household;

(3) number of persons under 18 years of age in the household;

(4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;

(5) proposed maintenance of pets;

(6) proposed commercial activity; or

(7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

Section
70. Security deposits; prepaid rent
80. Disclosure
90. Landlord to supply possession of the dwelling unit
100. Landlord to maintain fit premises
110. Limitation of liability

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with § 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a

bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

(3) maintain in good and safe working order and condition all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances, including elevators, supplied or required to be supplied by him;

(4) provide and maintain appropriate receptacles and conveniences for the removal of ashes, garbage, rubbish, and other waste incidental to the occupancy of the dwelling unit and arrange for their removal;

(5) supply running water and reasonable amounts of hot water and heat at all times, insofar as energy conditions permit, except where the building that includes the dwelling unit is so constructed that heat or hot water is generated by an installation within the exclusive control of the tenant and supplied by a direct public utility connection; and

(6) if requested by the tenant, provide and maintain locks and furnish keys reasonably adequate to insure safety to the tenant's person and property.

(b) A landlord of a single family residence located in an undeveloped rural area or located where public sewer or water service has never been connected is not liable for a breach of (a)(3) or (5) of this section if the dwelling unit at the beginning of the rental agreement did not have running water, hot water, sewage or sanitary facilities from a private system.

(c) The landlord and tenant of a one- or two-family residence may agree in writing that the tenant perform the landlord's duties specified in (a)(4), (5) and (6) of this section. They may also agree in writing that the tenant perform specified repairs, maintenance tasks, alterations and remodeling. Agreements are allowed under this subsection only if the transaction is entered into in good faith and not for the purpose of evading the obligations of the landlord.

(d) The landlord and tenant of a dwelling unit other than a single family residence may agree that the tenant is to perform specified repairs, maintenance tasks, alterations, or remodeling only if

(1) the agreement of the parties is entered into in good faith and not for the purpose of evading the obligations of the landlord and is set out in a separate writing signed by the parties and supported by adequate consideration; and

(2) the agreement does not diminish or affect the obligation of the landlord to other tenants in the premises.

(e) The landlord may not treat performance of a separate agreement described in (d) of this section as a condition to an obligation or performance of a rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.110. Limitation of liability. (a) Unless otherwise agreed, a landlord who conveys premises that include a dwelling unit subject to a rental agreement in a good faith sale to a bona fide purchaser is relieved of liability under the rental agreement and this chapter as to events occurring subsequent to written notice to the tenant of the conveyance. However, the landlord remains liable to the

tenant for the property and money to which the tenant is entitled under § 70 of this chapter, unless the property and money are specifically assigned to and accepted by the purchaser.

(b) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management. (§ 1 ch 10 SLA 1974)

Article 4. Tenant Obligations.

Section	Section
120. Tenant to maintain dwelling unit	140. Access
130. Rules and regulations	150. Tenant to use and occupy

Sec. 34.03.120. Tenant to maintain dwelling unit. The tenant shall

(1) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(2) dispose from his dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner;

(3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances including elevators in the premises;

(5) not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit any person to do so; and

(6) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not unreasonably disturb his neighbor's peaceful enjoyment of the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.130. Rules and regulations. (a) A landlord may adopt rules and regulations, which shall be posted prominently on the premises, concerning the tenant's use and occupancy of the premises. A rule or regulation is enforceable against the tenant only if

(1) its purpose is to promote the convenience, safety, health, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(2) it is reasonably related to the purpose for which it is adopted;

(3) it applies to all tenants in the premises in a fair manner;

(4) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(5) it is not for the purpose of evading the obligations of the landlord; and

(6) the tenant has notice of it at the time he enters into the rental agreement.

(b) A rule or regulation adopted after the tenant enters into the rental agreement is enforceable against the tenant if reasonable notice of its adoption is given to the tenant and it does not work a substantial modification of his rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.140. Access. (a) The tenant may not unreasonably withhold consent to the landlord to enter into the dwelling unit in order to inspect the premises, make necessary or agreed repairs, decorations, alterations, or improvements, supply necessary or agreed services, or exhibit the dwelling unit to prospective or actual purchasers, mortgagees, tenants, workmen or contractors.

(b) The landlord may enter the dwelling unit without the consent of the tenant in the case of emergency.

(c) No landlord may abuse the right of access or use it to harass the tenant. Except in case of emergency or if it is impracticable to do so, the landlord shall give the tenant at least 24 hours notice of his intent to enter and may enter only at reasonable times and with the tenant's consent.

(d) The landlord has no other right to access except by court order, and as permitted by § 230(b) of this chapter, or if the tenant has abandoned or surrendered the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.150. Tenant to use and occupy. Unless otherwise agreed, the tenant shall occupy his dwelling unit only as a dwelling unit. The rental agreement shall require that the tenant notify the landlord of an anticipated extended absence from the premises in excess of seven days; however, the notice shall be given as soon as reasonably possible after the tenant knows his absence will exceed seven days. (§ 1 ch 10 SLA 1974)

Article 5. Tenant Remedies.

Section		Section	
160.	Noncompliance by the landlord: General	190.	Landlord's noncompliance as defense to action for possession or rent
170.	Failure to deliver possession	200.	Fire or casualty damage
180.	Wrongful failure to supply heat, water, hot water or essential services	210.	Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service

Sec. 34.03.160. Noncompliance by the landlord: General. (a) Except as provided in this chapter, if there is a material noncompliance by the landlord with the rental agreement or a noncompliance with § 100 of this chapter materially affecting health and safety, the tenant may deliver a written notice to the landlord specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate upon a date not less than 20 days after receipt of the notice if the breach is not remedied in 10 days, and the rental agreement shall terminate as provided in the notice subject to

the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise, and the landlord remedies the breach before the date specified in the notice, the rental agreement will not terminate. In the absence of due care by the landlord, if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the tenant may terminate the rental agreement upon at least 10 days written notice specifying the breach and the date of termination of the rental agreement. The tenant may not terminate for a condition caused by the deliberate or negligent act or omission of the tenant, a member of his family or other person on the premises with his consent.

(b) Except as provided in this chapter, the tenant may recover damages and obtain injunctive relief for any noncompliance by the landlord with the rental agreement or §§ 100, 210, or 280 of this chapter.

(c) The remedy provided in (b) of this section is in addition to a right of the tenant under (a) of this section.

(d) If the rental agreement is terminated, the landlord shall return all prepaid rent or security deposits recoverable by the tenant under § 70 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.170. Failure to deliver possession. (a) If the landlord fails to deliver possession of the dwelling unit to the tenant as provided in § 90 of this chapter, rent abates until possession is delivered and the tenant may

(1) upon at least 10 days written notice to the landlord terminate the rental agreement and upon termination the landlord shall return all prepaid rent and security deposits; or

(2) demand performance of the rental agreement by the landlord and if the tenant elects, maintain an action for possession of the dwelling unit against the landlord and any person wrongfully in possession and recover the damages sustained by him.

(b) If a person's failure to deliver possession is wilful and not in good faith, an aggrieved tenant may recover from that person an amount not to exceed one and one-half times the actual damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.180. Wrongful failure to supply heat, water, hot water or essential services. (a) If, contrary to the rental agreement of § 100 of this chapter, the landlord deliberately or negligently fails to supply running water, hot water, heat, sanitary facilities or other essential services, the tenant may give written notice to the landlord specifying the breach and may immediately

(1) procure reasonable amounts of hot water, running water, heat, sanitary facilities and essential services during the period of the landlord's noncompliance and deduct their actual and reasonable cost from the rent;

(2) recover damages based on the diminution in the fair rental value of the dwelling unit; or

(3) procure reasonable substitute housing during the period of the landlord's noncompliance, in which case the tenant is excused from paying rent for the period of the landlord's noncompliance and, in addition, may recover the amount by which the actual and reasonable cost exceeds rent.

(b) If the tenant proceeds under this section, he may not proceed under § 160 of this chapter as to that breach.

(c) Rights do not arise under this section until the tenant has given written notice to the landlord. Rights do not arise under this section if the condition was caused by the deliberate or negligent act or omission of the tenant, a member of his family, or other person on the premises with his consent. (§ 1 ch 10 SLA 1974)

Sec. 34.03.190. Landlord's noncompliance as defense to action for possession or rent. (a) In an action for possession based upon nonpayment of the rent or in an action for rent when the tenant is in possession, the tenant may counterclaim for any amount which he may recover under the rental agreement or this chapter. If a counterclaim is made, the court shall determine whether the defense is supported by the evidence and, if so, may order that

(1) the periodic rent is to be reduced to reflect the diminution in value of the dwelling unit during the period of noncompliance;

(2) the action be continued for a reasonable time to enable the landlord to cure the violation;

(3) the tenant pay into court all or part of the rent accrued and thereafter accruing; if the violations have not been cured within six months, the court shall enter judgment for the defendant and either refund to the defendant all money deposited or use the money for the purpose of making the dwelling fit for human habitation; if the violations have been cured, the court shall determine the amount due to each party; the party to whom a net amount is owed shall be paid first from the money paid into the court, and the balance by the other party; if no rent remains due after application of this section, judgment shall be entered for the tenant in the action for possession;

(4) the tenant vacate the dwelling during the making of necessary repairs, when the repairs cannot be made without vacation of the premises, the tenant to be reinstated upon completion of the repairs.

(b) In an action for rent where the tenant is not in possession, the tenant may counterclaim as provided in (a) of this section but the tenant is not required to pay rent into court. (§ 1 ch 10 SLA 1974)

Sec. 34.03.200. Fire or casualty damage. (a) If the dwelling unit or premises are damaged or destroyed by fire or casualty to the extent that enjoyment of the dwelling unit is substantially impaired, the tenant shall

(1) immediately vacate the premises and notify the landlord of his

intention to terminate the rental agreement, in which case the rental agreement terminates as of the date of vacating; or

(2) if continued occupancy is lawful, vacate the part of the dwelling unit rendered unusable by the fire or casualty, in which case the tenant's liability for rent is reduced in proportion to the diminution in the fair rental value of the dwelling unit.

(b) If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable under § 70 of this chapter. Accounting for rent in the event of termination or apportionment shall occur as of the date of the casualty. (§ 1 ch 10 SLA 1974)

Sec. 34.03.210. Tenant's remedies for landlord's unlawful ouster, exclusion, or diminution of service. If the landlord unlawfully removes or excludes the tenant from the premises or wilfully diminishes services to the tenant by interrupting or causing the interruption of electric, gas, water, sanitary or other essential service to the tenant, the tenant may recover possession or terminate the rental agreement and, in either case, recover an amount not to exceed one and one-half times the actual damages. If the rental agreement is terminated, the landlord shall return all prepaid rent and security deposits recoverable by the tenant under § 70 of this chapter. (§ 1 ch 10 SLA 1974)

Article 6. Landlord Remedies.

Section		Section	
220.	Noncompliance with rental agreement: Failure to pay rent	250.	Landlord liens; distraint for rent abolished
230.	Remedies for absence, nonuse and abandonment	260.	Disposition of abandoned property
240.	Waiver of landlord's right to terminate	270.	Remedy after termination
		280.	Recovery of possession limited

Sec. 34.03.220. Noncompliance with rental agreement: Failure to pay rent. (a) Except as provided in this chapter, if there is a material noncompliance by the tenant with the rental agreement or noncompliance with § 120 of this chapter materially affecting health and safety, the landlord may deliver a written notice to the tenant specifying the acts and omissions constituting the breach and specifying that the rental agreement will terminate upon a date not less than 20 days after receipt of the notice. If the breach is not remedied in 10 days, the rental agreement terminates as provided in the notice subject to the provisions of this section. If the breach is remediable by repairs or the payment of damages or otherwise and the tenant adequately remedies the breach before the date specified in the notice, the rental agreement will not terminate. In the absence of due care by the tenant, if substantially the same act or omission which constituted a prior noncompliance of which notice was given recurs within six months, the landlord may terminate the rental agreement

upon at least 10 days written notice specifying the breach and the date of termination of the rental agreement.

(b) If rent is unpaid when due and the tenant fails to pay rent within 10 days after written notice by the landlord of nonpayment and his intention to terminate the rental agreement if the rent is not paid within that period of time, the tenancy terminates unless the landlord agrees to allow the tenant to remain in occupancy, and the landlord may terminate the rental agreement and immediately recover possession of the rental unit; only one written notice of default need be given the tenant by the landlord as to any one default.

(c) Except as provided in this chapter, the landlord may recover his actual damages and obtain injunctive relief for any noncompliance by the tenant with the rental agreement of § 120 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.230. Remedies for absence, nonuse and abandonment. (a) When the rental agreement requires the tenant to give notice to the landlord of an anticipated extended absence in excess of seven days as required in § 150 of this chapter and the tenant wilfully fails to do so, the landlord may recover an amount not to exceed one and one-half times the actual damages.

(b) During an absence of the tenant in excess of seven days, the landlord may enter the dwelling unit at times reasonably necessary as provided in § 140 of this chapter.

(c) If the tenant abandons the dwelling unit, the landlord shall make reasonable efforts to rent it at a fair rental value. If the landlord rents the dwelling unit for a term beginning before the expiration of the rental agreement, the agreement is considered terminated on the date the new tenancy begins. The rental agreement is considered terminated by the landlord on the date the landlord has notice of the abandonment if the landlord fails to use reasonable efforts to rent the dwelling unit at a fair rental value or if the landlord accepts the abandonment as a surrender. If the tenancy is from month to month, or week to week, the term of the rental agreement for purposes of this section shall be considered a month or a week, as the case may be. (§ 1 ch 10 SLA 1974)

Sec. 34.03.240. Waiver of landlord's right to terminate. Acceptance of rent with knowledge of a default by the tenant or acceptance of performance by the tenant that varies from the terms of the rental agreement or rules or regulations subsequently adopted by the landlord constitutes a waiver of the right of the landlord to terminate the rental agreement for that breach, unless otherwise agreed after the breach has occurred. (§ 1 ch 10 SLA 1974)

Sec. 34.03.250. Landlord liens; distraint for rent abolished. (a) A lien or security interest on behalf of the landlord in the tenant's household goods is not enforceable unless perfected before March 19, 1974.

(b) Distraint for rent is abolished. (§ 1 ch 10 SLA 1974)

Sec. 34.03.260. Disposition of abandoned property. (a) Except as otherwise agreed, if, upon termination of a tenancy including but not limited to, a termination after expiration of a lease or by surrender or abandonment of the premises, a tenant has left personal property upon the premises, and the landlord reasonably believes that the tenant has abandoned this personal property, the landlord may

(1) notify the tenant of his demand that the property be removed within the dates set out in the notice (but not less than 15 days after delivery or mailing of the notice), and that if the property is not removed within the time specified, the property may be sold; if the property is not removed within the time specified in the notice, the landlord may sell the property at a public sale; the landlord may dispose of perishable commodities in any manner he considers fit;

(2) if the tenant has left personal property which is reasonably determined by the landlord to be valueless or of such little value that the cost of storing and conducting a public sale would probably exceed the amount that would be realized from the sale, the landlord may notify the tenant that the property be removed within the date specified in the notice (but not less than 15 days after delivery or mailing of the notice), and that if the property is not removed within the time specified, the landlord intends to destroy or otherwise dispose of the property; if the property is not removed within the time specified in the notice, the landlord may destroy or otherwise dispose of the property; in his notice, the landlord shall indicate his election to sell certain items of the tenant's personal property at public sale and to destroy or otherwise dispose of the remainder.

(b) After notice as provided in (a) of this section, the landlord shall store all personal property of the tenant in a place of safekeeping and shall exercise reasonable care of the property, but is not responsible to the tenant for loss not caused by the landlord's deliberate or negligent act. The landlord may elect to store the property on the premises previously demised, in which event the storage cost may not exceed the fair rental value of the premises. If the tenant's property is removed to a commercial storage company, the storage cost shall include the actual charge for the storage and removal from the premises to the place of storage.

(c) After landlord's notice under (a) of this section, or otherwise, if the tenant makes timely response in writing of his intention to remove the personal property from the premises and does not do so within the time specified in the landlord's notice or within 15 days of the delivery or mailing of the tenant's written response (whichever is later), it shall be conclusively presumed that he has abandoned the property. If the tenant removes the property after notice, the landlord is entitled to the cost of storage for the period the property has remained in his safekeeping.

(d) The landlord may not be held to respond in damages in an action by a tenant claiming loss by reason of the landlord's election,

destruction, or disposition of property, or sale. If, however, the landlord deliberately or negligently violates the provisions of this section, he is liable for actual damages and penal damages of an amount not to exceed actual damages.

(e) A public sale authorized under the provisions of this section shall be conducted under the provisions of AS 09.35.140. The landlord may dispose of any property upon which no bid is made at the public sale. (§ 1 ch 10 SLA 1974)

Sec. 34.03.270. Remedy after termination. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.280. Recovery of possession limited. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including wilful diminution of services to the tenant by interrupting or causing the interruption of electricity, gas, water, sanitary or other essential services to the tenant, except in case of abandonment, surrender, circumstances beyond his control due to energy conditions, or as permitted in this chapter. (§ 1 ch 10 SLA 1974)

Article 7. Periodic Tenancy, Holdover, and Abuse of Access.

Section
290. Periodic tenancy and holdover
300. Landlord and tenant remedies for abuse of access

Sec. 34.03.290. Periodic tenancy and holdover. (a) While rent is current, the landlord or the tenant may terminate a week to week tenancy by a written notice given to the other at least 14 days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 30 days before the rental due date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, § 20 of this chapter applies. (§ 1 ch 10 SLA 1974)

Sec. 34.03.300. Landlord and tenant remedies for abuse of access. (a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater. If the landlord terminates the rental agreement, he shall give

written notice to the tenant at least 10 days before the date specified in the notice.

(b) If the landlord makes an unlawful entry or a lawful entry in an unreasonable manner or makes repeated demands for entry otherwise lawful but which have the effect of unreasonably harassing the tenant, the tenant may obtain injunctive relief to prevent the recurrence of the conduct, or terminate the rental agreement. In either case, the tenant may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater, court costs and reasonable attorney fees. If the tenant terminates the rental agreement, he shall give written notice to the landlord at least 10 days before the date specified in the notice. (§ 1 ch 10 SLA 1974)

Article 8. Retaliatory Action.

Section
310. Retaliatory conduct prohibited

Sec. 34.03.310. Retaliatory conduct prohibited. (a) Except as provided in (c) and (d) of this section, a landlord may not retaliate by increasing rent or decreasing services or by bringing or threatening to bring an action for possession after the tenant has

(1) complained to the landlord of a violation of § 100 of this chapter;

(2) endeavored to avail himself of rights and remedies granted him under the provisions of this chapter;

(3) organized or become a member of a tenant's union or similar organization; or

(4) complained to a governmental agency responsible for enforcement of governmental housing, wage, price or rent controls.

(b) If the landlord acts in violation of (a) of this section, the tenant is entitled to the remedies provided in § 210 of this chapter and has a defense in an action against him for possession.

(c) Notwithstanding (a) and (b) of this section, a landlord may bring an action for possession if

(1) the tenant is in default in rent;

(2) compliance with the applicable building or housing code requires alteration, remodeling, or demolition which would effectively deprive the tenant of use of the dwelling unit;

(3) the tenant is committing waste, or a nuisance, or is using the dwelling unit for an illegal purpose or for other than living or dwelling purposes in violation of his rental agreement;

(4) he seeks in good faith to recover possession of the dwelling unit for personal purposes;

(5) he seeks in good faith to recover possession of the dwelling unit for the purpose of substantially altering, remodeling, or demolishing the premises;

(6) he seeks in good faith to recover possession of the dwelling unit for the purpose of immediately terminating for at least six months use of the dwelling unit as a dwelling unit; or

(7) he has in good faith contracted to sell the property, and the contract of sale contains a representation by the purchaser corresponding to (4), (5) or (6) of this subsection.

(d) Notwithstanding (a) of this section, the landlord may increase the rent if he

(1) has become liable for a substantial increase in property taxes, or a substantial increase in other maintenance or operating costs not associated with his complying with the complaint or request, not less than four months before the demand for an increase in rent; and the increase in rent bears a reasonable relationship to the net increase in taxes or costs;

(2) has completed a capital improvement of the dwelling unit or the property of which it is a part and the increase in rent does not exceed the amount which may be claimed for federal income tax purposes as a straight-line depreciation of the improvement, prorated among the dwelling units benefited by the improvement;

(3) can establish, by competent evidence, that the rent now demanded of the tenant does not exceed the rent charged other tenants of similar dwelling units in his building or, in the case of a single-family residence or if there is no similar dwelling unit in the building, does not exceed the fair rental value of the dwelling unit.

(e) Maintenance of the action under (c) of this section does not release the landlord from liability under § 160(b) of this chapter. (§ 1 ch 10 SLA 1974)

Article 9. General Provisions.

Section
320. Obligation of good faith
330. Application and exclusions
340. Service of process
350. Attorney fees
360. Definitions
370. Applicability
380. Short title

Sec. 34.03.320. Obligation of good faith. Every duty under this chapter and every act which must be performed as a condition precedent to the exercise of a right or remedy under this chapter imposes an obligation of good faith in its performance or enforcement. The aggrieved party has a duty to mitigate damages. (§ 1 ch 10 SLA 1974)

Sec. 34.03.330. Application and exclusions. (a) This chapter applies to and determines rights, obligations and remedies under a rental agreement, wherever made, for a dwelling unit in this state.

(b) Unless created to avoid the application of this chapter, the following arrangements are not governed by this chapter:

(1) residence at an institution, public or private, if incidental to detention or the provision of medical, geriatric, educational, counseling, religious, or similar services;

(2) occupancy under a contract of sale of a dwelling unit or the

property of which it is a part, if the occupant is the purchaser or a person who succeeds to his interest;

(3) occupancy by a member of a fraternal or social organization in the portion of a structure operated for the benefit of the organization;

(4) transient occupancy in a hotel, or motel, lodgings or other transient facility;

(5) occupancy by an employee of a landlord whose right to occupancy is conditioned upon employment substantially for services, maintenance, or repair to the premises;

(6) occupancy by an owner of a condominium unit or a holder of a proprietary lease in a cooperative;

(7) occupancy under a rental agreement covering premises used by the occupant primarily for agricultural purposes. (§ 1 ch 10 SLA 1974)

Sec. 34.03.340. Service of process. If a landlord is not a resident of this state or is a corporation not authorized to do business in this state and engages in any conduct in this state governed by this chapter, or engages in a transaction subject to this chapter, he may designate an agent upon whom service of process may be made in this state. The agent shall be a resident of this state or a corporation authorized to do business in this state. The agent shall be the same person designated under § 80 of this chapter. The designation shall be in writing and filed with the commissioner of commerce. If no designation is made and filed or if process cannot be served in this state upon the designated agent, process may be served upon the commissioner of commerce, but the service upon him is not effective unless the plaintiff or petitioner immediately mails a copy of the process and pleadings by certified or registered mail to the defendant or respondent at his last ascertainable address. An affidavit of compliance with this section shall be filed with the clerk of the court having jurisdiction on or before the return day for the process, if any, or within any further time allowed by the court. (§ 1 ch 10 SLA 1974)

Sec. 34.03.350. Attorney fees. Attorney fees shall be allowed to the prevailing party in any proceeding arising out of this chapter or a rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.360. Definitions. In this chapter

(1) "abandonment" means that the tenant has left the dwelling unit and his personal belongings in it and has been absent for a continuous period of seven days or longer without giving notice under § 150 of this chapter and has defaulted in the payment of rent;

(2) "building and housing codes" include any law, ordinance, or governmental regulation concerning fitness for habitation, or the construction, maintenance, operation, occupancy, use, or appearance of a premise or dwelling unit;

(3) "dwelling unit" means a structure or a part of a structure that is used as a home, residence, or sleeping place by one person who maintains a household or by two or more persons who maintain a

common household, and includes mobile homes, and if located in a mobile home park, the lot or space upon which a mobile home is placed;

(4) "fair rental value" means the average rental rate in the community for available dwelling units of similar size and features;

(5) "good faith" means honesty in fact in the conduct of the transaction concerned;

(6) "landlord" means the owner, lessor, or sublessor of the dwelling unit or the building of which it is a part, and it also means a manager of the premises who fails to disclose as required by § 80 of this chapter;

(7) "organization" includes a corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership or association, two or more persons having a joint or common interest, and any other legal entity;

(8) "owner" means one or more persons, jointly or severally, in whom is vested all or part of the legal title to property or all or part of the beneficial ownership of property and a right to present use of the premises; and the term includes a mortgagee in possession;

(9) "person" includes an individual or organization;

(10) "premises" means a dwelling unit and the structure of which it is a part and facilities and appurtenances in it and grounds, areas and facilities held out for the use of tenants generally or whose use is promised to the tenant;

(11) "prepaid rent" means that amount of money demanded by the landlord at the initiation of the tenancy for the purpose of ensuring that rent will be paid, but does not include the first month's rent or money received as security for damage;

(12) "rent" means the uniform periodic payment due the landlord, however denominated;

(13) "rental agreement" means all agreements, written or oral, and valid rules and regulations adopted under § 130 of this chapter embodying the terms and conditions concerning the use and occupancy of a dwelling unit and premises;

(14) "sanitary facility" means a flush toilet and proper drainage for all toilets, sinks, basins, bathtubs and showers;

(15) "single family residence" means a structure maintained and used as a single dwelling unit;

(16) "tenant" means a person entitled under a rental agreement to occupy a dwelling unit to the exclusion of others;

(17) "undeveloped rural area" means an area where public sewer or water services are not available;

(18) "wear resulting from ordinary use" means deterioration of the premises which is the result of the tenant's normal nonabusive living and includes but is not limited to deterioration caused by the landlord's failure to prepare for expected conditions or by the landlord's failure to comply with his obligations. (§ 1 ch 10 SLA 1974)

Sec. 34.03.370. Applicability. After March 19, 1974, this chapter applies to any rental agreement, lease, or tenancy entered into,

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

Sectional Analysis CS HB 252 (Judiciary)am: "An act relating to the obligaitons of landlords"

Through the committee process, HB 252 was replaced by a House Judiciary C and when it came before the House, amendment #1 by Phillips was adopted. The bill passed the House 28-11-1, was transmitted to the Senate, and the Senate Judiciary committee moved the bill with a recommended amendment.

Section 1): Repeals and reenacts AS 34.03.070(b): Upon termination of the tenancy, a security deposit (property or money) may be applied to the payment of accrued rent and/or damages which the landlord has suffered. The accrued rent and damages must be itemized by the landlord in a written notice, and (delivered) MAILED to the tenants last known address within the time limits prescribed in section 2.

Section 2): If the tenant gives written notice which complies with AS 34.03.290, the landlord shall mail the written notice and refund within 14 days. If the tenant fails to give notice which complies with AS 34.03.290, the landlord shall mail the written notice and refund within 30 days. If the landlord does not know the mailing address of the tenant, but knows or has reason to know how to contact the tenant, the landlord shall make every reasonable effort to deliver the notice and refund.

"Damages" do not include wear resulting from ordinary use of the premisses.

Alaska State Legislature

Senate

Labor & Commerce Committee

Official Business

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State Capitol
Juneau, Alaska 99811

SB 224 and CSHB 252 (Judiciary) am: "An act relating to the obligations of landlords"

Upon introduction, SB 224 (Sturgulewski by request) and HB 252 (Anderson by request) were identical, however HB 252 was replaced with a House Judiciary CS which rewrites a section of the Uniform Landlord Tenants Act. When the bill came before the House, amendment #1 by Rep Phillips was adopted, and the bill passed the House with a vote of 28-11-1. In the Senate the bill was referred to the Judiciary committee which recommended an amendment, and subsequently was also referred to the Labor and Commerce committee.

SUMMARY OF SB 224:

After a tenant terminates his rental, property or money (held as security) may be applied by the landlord for payment of accrued rent or damages (AS 34.03.120).

Accrued rent and damages must be itemized by the landlord in a written notice and delivered with the amount due to the tenant no later than 30 days after the following:

1. Termination of the tenancy
2. Delivery of possession of the tenant
3. Notice to the landlord of an address notices to the tenant may be sent.

"Damages do not include wear resulting from ordinary use of the premises.

SUMMARY OF CSHB 252 (Judiciary) am:

Section 1: Essentially the same, except for the provision that the landlord mail (originally deliver) the itemized written notice of accrued rent and/or damages to the tenant's last known address. The original bill required the tenant to provide the landlord with an address to which notices may be sent, as a condition of the security deposit refund within the prescribed time limit. The CS details those requirements in section 2.

Section 2: Requires the tenant to give notice which complies with AS 34.03.290, and

that the landlord shall mail the written notice and refund within 14 days (original bill-30 days), after the termination of tenancy and delivery of possession by the tenant. A substantive difference between the original bill and the CS occurs with the provision that when a tenant fails to give notice in accordance with AS 34.03.290 the landlord shall mail the written notice and refund within 30 days after the following have occurred:

1) the tenancy is terminated,
2) possession is delivered by the tenant, or
3) the landlord becomes aware that the dwelling or unit is abandoned.

The original bill required the tenant to provide the landlord with a mailing address, however, if the landlord does not have a mailing address for the tenant, but knows or has reason to know how to contact the tenant, the landlord shall make every reasonable effort to contact the tenant.

COMMITTEE REPORT

SENATE

6/15/81

FURTHER: None

Date: 23 JANUARY 1982

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 252(Fin) am relating to the obligations of landlords

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

[X] do pass [ ] do not pass

[X] do pass with attached amendments(s) SENATE J.d AMENDMENT [ ] same title

[ ] replace with CS for _____ [ ] new title

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

S 60 (Rev. 12/78)

(d) Within 14 days after the written offer has been delivered to the landlord, the landlord may refuse consent to a sublease or assignment by a written rejection signed and delivered by him to the tenant, containing one or more of the following reasonable grounds for rejecting the prospective occupant:

(1) insufficient credit standing or financial responsibility;

(2) number of persons in the household;

(3) number of persons under 18 years of age in the household;

(4) unwillingness of the prospective occupant to assume the same terms as are included in the existing rental agreement;

(5) proposed maintenance of pets;

(6) proposed commercial activity; or

(7) written information signed by a previous landlord, which shall accompany the rejection, setting out abuses of other premises occupied by the prospective occupant.

(e) In the event the written rejection fails to contain one or more grounds permitted by (d) of this section for rejecting the prospective occupant, the tenant may consider the landlord's consent given, or at his option may terminate the rental agreement by a written notice given without unnecessary delay to the landlord at least 30 days before the termination date specified in the notice.

(f) If the landlord does not deliver a written rejection signed by him to the tenant within 14 days after a written offer has been delivered to him by the tenant, the landlord's consent to the sublease or assignment shall be conclusively presumed. (§ 1 ch 10 SLA 1974)

Article 3. Landlord Obligations.

Section
70. Security deposits; prepaid rent
80. Disclosure
90. Landlord to supply possession of the dwelling unit
100. Landlord to maintain fit premises
110. Limitation of liability

Sec. 34.03.070. Security deposits; prepaid rent. (a) A landlord may not demand or receive prepaid rent or a security deposit, however denominated, in an amount or value in excess of two months' periodic rent.

(b) Upon termination of the tenancy, property or money held by the landlord as prepaid rent or as a security deposit may be applied to the payment of accrued rent and the amount of damages which the landlord has suffered by reason of the tenant's noncompliance with 120 of this chapter. The accrued rent and damages must be itemized by the landlord in a written notice delivered to the tenant together with the amount due no later than 14 days after termination of the tenancy and delivery of possession by the tenant. "Damages" do not include wear resulting from ordinary use of the premises.

(c) All money paid to the landlord by the tenant as prepaid rent or as a security deposit in a lease or rental agreement shall be promptly deposited by the landlord, wherever practicable, in a trust account in a

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bank, savings and loan association, or licensed escrow agent, and the landlord shall provide to the tenant the terms and conditions under which the prepaid rent or security deposit or portions of them may be withheld by the landlord; nothing in this chapter prohibits the landlord from commingling prepaid rents and security deposits in a single financial account.

(d) If the landlord wilfully fails to comply with (b) of this section, the tenant may recover an amount not to exceed twice the actual amount withheld.

(e) This section does not preclude a landlord or tenant from recovering other damages to which he may be entitled under this chapter.

(f) The holder of the landlord's interest in the premises at the time of the termination of the tenancy is bound by this section. (§ 1 ch 10 SLA 1974)

Sec. 34.03.080. Disclosure. (a) The landlord or person authorized to enter into a rental agreement on his behalf shall disclose to the tenant in writing at or before the commencement of the tenancy the name and address of

(1) the person authorized to manage the premises; and

(2) an owner of the premises or a person authorized to act for and on behalf of the owner for the purpose of service of process and for the purpose of receiving and receipting for notices and demands.

(b) The information required to be furnished by this section shall be kept current and this section extends to and is enforceable against any successor landlord, owner or manager.

(c) A person who fails to comply with (a) of this section becomes an agent of each person who is a landlord for the purpose of

(1) service of process and receiving and receipting for notices and demands; and

(2) performing the obligations of the landlord under this chapter and under the rental agreement and expending or making available for the purpose all rent collected from the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.090. Landlord to supply possession of the dwelling unit. At the commencement of the term the landlord shall deliver possession of the premises to the tenant in compliance with the rental agreement and § 100 of this chapter. The landlord may bring an action for possession against any person wrongfully in possession and may recover the damages provided in § 290 of this chapter. (§ 1 ch 10 SLA 1974)

Sec. 34.03.100. Landlord to maintain fit premises. (a) The landlord shall

(1) make all repairs and do whatever is necessary to put and keep the premises in a fit and habitable condition;

(2) keep all common areas of the premises in a clean and safe condition;

tenant for the property and money to which the tenant is entitled under § 70 of this chapter, unless the property and money are specifically assigned to and accepted by the purchaser.

(b) Unless otherwise agreed, a manager of premises that include a dwelling unit is relieved of liability under the rental agreement and this chapter as to events occurring after written notice to the tenant of the termination of his management. (§ 1 ch 10 SLA 1974)

Article 4. Tenant Obligations.

Section	Section
120. Tenant to maintain dwelling unit	140. Access
130. Rules and regulations	150. Tenant to use and occupy

Sec. 34.03.120. Tenant to maintain dwelling unit. The tenant shall

(1) keep that part of the premises that he occupies and uses as clean and safe as the condition of the premises permit;

(2) dispose from his dwelling unit all ashes, rubbish, garbage, and other waste in a clean and safe manner;

(3) keep all plumbing fixtures in the dwelling unit or used by the tenant as clean as their condition permits;

(4) use in a reasonable manner all electrical, plumbing, sanitary, heating, ventilating, air-conditioning, kitchen and other facilities and appliances including elevators in the premises;

(5) not deliberately or negligently destroy, deface, damage, impair or remove a part of the premises or knowingly permit any person to do so; and

(6) conduct himself and require other persons on the premises with his consent to conduct themselves in a manner that will not unreasonably disturb his neighbor's peaceful enjoyment of the premises. (§ 1 ch 10 SLA 1974)

Sec. 34.03.130. Rules and regulations. (a) A landlord may adopt rules and regulations, which shall be posted prominently on the premises, concerning the tenant's use and occupancy of the premises. A rule or regulation is enforceable against the tenant only if

(1) its purpose is to promote the convenience, safety, health, or welfare of the tenants in the premises, preserve the landlord's property from abusive use, or make a fair distribution of services and facilities held out for the tenants generally;

(2) it is reasonably related to the purpose for which it is adopted;

(3) it applies to all tenants in the premises in a fair manner;

(4) it is sufficiently explicit in its prohibition, direction, or limitation of the tenant's conduct to fairly inform him of what he must or must not do to comply;

(5) it is not for the purpose of evading the obligations of the landlord; and

destruction, or disposition of property, or sale. If, however, the landlord deliberately or negligently violates the provisions of this section, he is liable for actual damages and penal damages of an amount not to exceed actual damages.

(e) A public sale authorized under the provisions of this section shall be conducted under the provisions of AS 09.35.140. The landlord may dispose of any property upon which no bid is made at the public sale. (§ 1 ch 10 SLA 1974)

Sec. 34.03.270. Remedy after termination. If the rental agreement is terminated, the landlord may have a claim for possession and for rent and a separate claim for actual damages for breach of the rental agreement. (§ 1 ch 10 SLA 1974)

Sec. 34.03.280. Recovery of possession limited. A landlord may not recover or take possession of the dwelling unit by action or otherwise, including wilful diminution of services to the tenant by interrupting or causing the interruption of electricity, gas, water, sanitary or other essential services to the tenant, except in case of abandonment, surrender, circumstances beyond his control due to energy conditions, or as permitted in this chapter. (§ 1 ch 10 SLA 1974)

Article 7. Periodic Tenancy, Holdover, and Abuse of Access.

Section
290. Periodic tenancy and holdover
300. Landlord and tenant remedies for abuse of access

Sec. 34.03.290. Periodic tenancy and holdover. (a) While rent is current, the landlord or the tenant may terminate a week to week tenancy by a written notice given to the other at least 14 days before the termination date specified in the notice.

(b) The landlord or the tenant may terminate a month to month tenancy by a written notice given to the other at least 30 days before the rental due date specified in the notice.

(c) If the tenant remains in possession without the landlord's consent after expiration of the term of the rental agreement or after its termination, the landlord may bring an action for possession and if the tenant's holdover is wilful and not in good faith the landlord, in addition, may recover an amount not to exceed one and one-half times the actual damages. If the landlord consents to the tenant's continued occupancy, § 20 of this chapter applies. (§ 1 ch 10 SLA 1974)

Sec. 34.03.300. Landlord and tenant remedies for abuse of access. (a) If the tenant refuses to allow lawful access, the landlord may obtain injunctive relief to compel access, or terminate the rental agreement. In either case, the landlord may recover an amount not to exceed the actual damages or one month's periodic rent, whichever is greater. If the landlord terminates the rental agreement, he shall give

HB
274

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 274:

Amends section relating to minimum electrical standards. The 1981 (presently 1978) edition of the National Electrical Code and the latest published edition of the National Electrical Safety Code constitue the minimum electrical standards of the State. Amends Borough abd city electrical codes by stating that the Department may by regulation adopt amendments to the 1981 (presently 1975) National Electrical Code as approved and issued by the American Standards Association.

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

Committee Meeting Minutes: 27 May, 1981

The Senate Labor and Commerce Committee meeting was called to order by Senator Mulcahy at 3:04pm, and the first item of business was HB 314am. Representative Haugen, sponsor of the bill, provided testimony on the bill, and Senator Fahrenkamp made a motion to move the bill with individual recommendations.

Senator Mulcahy brought up HB 274, and a motion was made by Senator Fahrenkamp that the bill be moved from committee with individual recommendations.

Chairman Mulcahy brought up CS SB 318, and a motion was made by Senator Fahrenkamp that the bill be moved with individual recommendations.

The final piece of legislation addressed at the meeting was CS SB 552 and after a brief discussion by committee members, a motion was made by Senator Fahrenkamp that CS SB 552 move from committee with individual recommendations. The committee meeting was adjourned at 3:14pm.

SENATE

FURTHER: None

4/2/81 Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 274(L&C)

electrical codes

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Phillip Isaacson

Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mulcahy
CHAIRMAN

chapter may appeal in the manner prescribed by § 370 of this chapter. (§ 6 ch 106 SLA 1957)

Sec. 18.60.450. Violations and penalties. A person who violates a provision of §§ 400—460 of this chapter is guilty of a misdemeanor and is punishable by a fine of not less than $50 nor more than $500. (§ 7 ch 106 SLA 1957)

Sec. 18.60.460. Enforcement of article. Federal, state and municipal law enforcement officers may enforce §§ 400—460 of this chapter. (§ 8 ch 106 SLA 1957)

Article 5. Radiation Protection Act.

Section
470—570. [Repealed]

Secs. 18.60.470—18.60.570.

Repealed by § 4 ch 120 SLA 1971, effective July 1, 1971.

Editor's note. — The repealed article derived from §§ 1—11, ch. 66, SLA 1957; §§ 1—4, ch. 51, SLA 1969; § 6, ch. 104, SLA 1971.

Section 5, ch. 120, SLA 1971, provides: "All litigation, hearings, investigations and other proceedings pending under any law amended or functions which may be transferred by this Act, continue in effect and may be continued and completed notwithstanding any such transfer or amendment provided for in this Act. Certificates, orders, rules or regulations issued or filed under authority of a law amended by this Act or functions which may be transferred by this Act, remain in effect for the term issued, unless or until revoked, vacated, or otherwise modified under the provisions of this Act. All contracts or other obligations created by any law amended by this Act or by virtue of functions which may be transferred by this Act, and in effect on July 1, 1971, remain in effect unless or until revoked, or modified under the provisions of this Act."

Legislative committee report. — For report on ch. 120, SLA 1971 (SB 75 am H), see 1971 House Journal, p. 1016.

Article 6. Electrical Safety.

Section
580. Minimum electrical standards
590. Borough and city electrical safety codes
600. Powers and duties of the department
610. Delegation of authority
620. Inspection fees.
630. Enforcement of compliance
640. Scope of work covered
650. Penalty for violations
660. Definitions.

Sec. 18.60.580. Minimum electrical standards. The Department of Labor shall adopt the 1971 published edition of the National Electrical Code approved by the American Standards Association, and the latest published edition as of August 5, 1969 of the National Electrical Safety Code issued by the U.S. Department of Commerce, Bureau of Standards, as the minimum electrical safety standards of the state. (§ 1 ch 89 SLA 1969; am § 1 ch 37 SLA 1972)

Effect of amendment. — The 1972 amendment substituted "1971" for "1968" near the beginning of this section.

Sec. 18.60.590. Borough and city electrical safety codes. (a) The department may by regulation adopt amendments the 1971 National Electrical Code as approved and issued by the American Standards Association.

(b) This chapter does not affect the authority of any municipality or rural electrification association to prescribe by ordinance, rule, or order standards for their respective areas of jurisdiction not less stringent than the standards prescribed by the department or those established under § 580 of this chapter. (§ 1 ch 89 SLA 1969; am § 42 ch 69 SLA 1970; am § 29 ch 53 SLA 1973)

Effect of amendments. — The 1970 amendment substituted "adopt" for "incorporate into §§ 580—660 of this chapter" in subsection (a).

The 1973 amendment substituted "1971" for "1968" in subsection (a).

Legislative committee reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7. For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

Sec. 18.60.600. Powers and duties of the department. (a) The department may

(1) promulgate regulations to carry out the purposes of §§ 580 —660 of this chapter;

(2) inspect the electrical wiring of any place of employment or public structure in this state.

(b) The department shall

(1) keep a record of all inspection fees collected;

(2) keep a record of all electrical inspections conducted. (§ 1 ch 89 SLA 1969)

Sec. 18.60.610. Delegation of authority. Upon application to the department, a person, corporation, electric utility firm, public utility district, rural electrification association, or municipal utility district furnishing electrical current may be authorized by the commissioner to inspect the electrical wiring for a public or commercial structure as defined in § 660 of this chapter to which it is to furnish electrical current before energizing the electrical system on, in, or about the premises. Authorization by the commissioner under this section constitutes a grant of full authority to act within the provisions of §§ 580—660 of this chapter with the same immunities and privileges accorded to the state in the performance of these duties. A person or entity whose electrical wiring installation is found, by the authorized inspector, not to meet the standards prescribed has the right to appeal to the commissioner for a new inspection. The commissioner shall, within 15 days, furnish a new inspection by a designee not associated with the person, firm or utility who did the original inspection. (§ 1 ch 89 SLA 1969)

Sec. 18.60.620. Inspection fees. A person, corporation, electric utility firm, public utility district, rural electrification association or municipal utility district authorized under § 610 of this chapter to

HB
314

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY HB 314am:

Changes the hours which a child (minor under 16) may be employed. If employed a child may work only between 5 (6)am and 9 (7)pm, not to exceed 23 hours outside school in one week, nor a combined total of nine hours school attendance and employment.

Bill No. House Bill 314 am

Date April 3, 1981

Title "An Act relating to employment of children; and providing for an effective date."

Contact: Judy Knight 465-2700
Dale Cheek 465-4870

This bill changes the time frames in which minors are permitted to work by allowing the workday to begin at 5:00 a.m., one hour earlier than now permitted; and to end at 9:00 p.m., two hours later than is now permitted. The bill does not change the total number of hours a minor is permitted to work in any day or week.

If this bill is passed there would be a conflict with federal regulations in that 29 CFR permits a minor under 16 to work only between the hours of 7:00 a.m. and 7:00 p.m. when school is in session. However, Alaska law is already in conflict with the federal regulation because currently AS 23.10.340(a) permits a minor to begin to work at 6:00 a.m. The department considers these conflicts to be minor in nature and would not adversely affect the welfare of the children involved.

The Department of Labor supports the passage of this bill.

POSITION PAPER/Department of Labor

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

Committee Meeting Minutes: 27 May, 1981

The Senate Labor and Commerce Committee meeting was called to order by Senator Mulcahy at 3:04pm, and the first item of business was HB 314am. Representative Haugen, sponsor of the bill, provided testimony on the bill, and Senator Fahrenkamp made a motion to move the bill with individual recommendations.

Senator Mulcahy brought up HB 274, and a motion was made by Senator Fahrenkamp that the bill be moved from committee with individual recommendations.

Chairman Mulcahy brought up CS SB 318, and a motion was made by Senator Fahrenkamp that the bill be moved with individual recommendations.

The final piece of legislation addressed at the meeting was CS SB 552 and after a brief discussion by committee members, a motion was made by Senator Fahrenkamp that CS SB 552 move from committee with individual recommendations. The committee meeting was adjourned at 3:14pm.

SENATE

FURTHER: None

3/31/81

Date: _____

Mr. President:

The Committee on LABOR & COMMERCE has had HB 314 am employement of children

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

Tom Hirsenberg

Bob Mulcahy

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Mulcahy
CHAIRMAN

Sec. 23.10.335. Employment of children under 14. No minor under 14 years of age may be employed or allowed to work in an occupation outside school hours except in domestic employment, baby-sitting and handiwork in and about private homes; newspaper delivery or sales; or canneries in warehouse work casing cans under competent supervision. (§ 1 ch 73 SLA 1949)

Sec. 23.10.340. Children under 16. (a) A minor under 16 years of age may not be employed for more than a combined total of nine hours school attendance and employment in one day. If employed, his work may be performed only between 6 a.m. and 7 p.m. His employment outside school hours may not exceed 23 hours in one week, domestic work and baby-sitting excepted.

(b) No minor under 16 years of age may be employed or allowed to work in a restaurant. (§ 1 ch 73 SLA 1949: § 3 ch 73 SLA 1949; am § 2 ch 28 SLA 1951)

ALR reference. — Constitutionality of statute limiting hours of labor of children and women in private industry, 90 ALR 815.

Sec. 23.10.345. Exemptions for minors over 16 or who have graduated from high school. (a) While on school vacation, a minor over 16 years of age may be employed in work not otherwise prohibited by §§ 350—355 of this chapter, or by regulations promulgated under § 360 of this chapter, if the employment meets the conditions of wages and hours prevailing for the majority of employees in the industry at the time of employment.

(b) The commissioner of labor may grant an exemption, in writing, for a minor over 16 years of age while on school vacation, or a minor under 18 years of age who has graduated from high school to work in an occupation prohibited by § 350 (1), (2), and (4) of this chapter, or by regulations promulgated under § 360 of this chapter, if the commissioner determines that the actual duties to be performed by the minor would not unduly endanger the life, limb, health, or morals of the minor.

(c) The commissioner, in order to determine whether or not an exemption may be granted to a minor under (b) of this section, may require the minor or his prospective employer to provide information concerning the nature of the employment. (§ 2 ch 73 SLA 1949; am § 1 ch 28 SLA 1951; am § 1 ch 26 SLA 1964)

Effect of amendment.—The 1964 amendment rewrote the former section, designating it subsection (a), and added subsections (b) and (c).

Sec. 23.10.350. Employment of children under 18. No minor under 18 years of age may be employed or allowed to work

(1) in a gainful occupation for more than eight hours in a day, 40 hours in a week, or for more than six days in a week;

(2) in excavations, or in surface mining, or underground in

HB

325

Alaska State Legislature

Senate

Committee on Labor & Commerce

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

SUMMARY CSHB 325:

Amends AS 45.55.200 relating to orders and injunctions under the Alaska Securities Act. When the Commissioner of Commerce and Economic Development determines that a person has engaged or is about to engage in a practice in violation of the Alaska Sec. Act he may, after giving reasonable notice, issue an order directing the person to cease and desist from continuing the act, or he may bring an action in the superior court. He may issue a temporary order pending the hearing, which shall remain in effect until 10 days after the hearing is held, and which becomes final, if the person to whom the notice is addressed does not request a hearing within 15 days after receipt. Bill expands the scope of the order issued by the administrator, and requires the person to file annual reports, proxies, consents or authorizations, proxy statements, or materials relating to proxy solicitations, with the administrator for examination, 10 working days before a distribution to shareholders. This period of filing may not exceed three years.

If the proxies were solicited by untrue or misleading means (prohibited under AS 45.55.160) the order shall void the proxies including their future exercise or actions resulting from their past exercise.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE &
ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

April 28, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor &
Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Re: SB 411

SB 411 which will soon be before your committee is a companion bill to CSHB 325 which recently passed the House.

Although the House Labor and Commerce Committee was provided with a Fiscal Note and testimony on this bill, the bill inadvertently passed the House without the attendant Fiscal Note. We are enclosing herewith a copy of that Fiscal Note as we feel it is important that it be considered by your committee. In addition, we are enclosing a copy of our Bill Analysis which requests that the language of SB 411 be conformed to that of CSHB 325. These changes will make clear that the area of concern is solely that of Native corporations.

The Division of Banking and Securities' staff is available for testimony on the bill at such time as you may schedule it for hearing.

Yours very truly,

FOR Charles R. Webber
Commissioner

CRW/mc2/1

Enclosures

08-H21.H

Department of Commerce and Economic Development
Division of Banking and Securities

Bill Analysis
SB 411

Senate Bill 411, "An Act relating to orders under the Alaska Securities Act of 1959," provides the Administrator of Securities with proper authority to take action against deceptive and fraudulent practices in proxy solicitations. The bill corrects the lack of administrative remedies in AS 45.55.159, enacted in 1977.

The intention in adding the two new sections, (B) and (C), to AS 45.55.200(a) is to provide proper enforcement for violations of Section 160 by companies described in Section 139 only. The legislation, as introduced, does not limit the Administrator's authority to proxy solicitations by ANSCA corporations. In fact, it would permit the Administrator to take action against the GM's and IBM's even though the Alaska Securities Act does not otherwise provide such authority, as their proxy solicitations are already fully regulated under the Federal Securities Act of 1934.

The Division of Banking and Securities recommends the adoption of the amendments incorporated in CSHB 325 (L & C). With this proposed amendment, the Division would be in favor of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

When AS 45.55.139 was enacted in 1977, the Division of Banking and Securities had no prior history or other documentation to show the potential impact of administering proxy laws and regulations relative to the Alaska Native Claims Settlement Act. Based on investigative time and costs incurred in this area since 1977 and on the fact that 31 regional and village corporations currently come under the provisions of AS 45.55.139 and this proposed legislation, the projected costs are reasonable.

Travel costs include investigative travel of securities staff for hearings and witness travel costs. Contractual cost is for additional persons as required by the Department of Administration pursuant to the memorandum of February 5, 1981.

1	POSITION TITLE Administrative Support Tech II				RANGE/STEP 8A	BARG. UNIT. G	LOCATION Juneau	GOV.	APPROV. / DISAPP.
2	TYPE OF POSITION PFT	STAFF MONTHS 12	RP No.	PCN No. 1186	PRIORITY		FORM 12 PAGE/LINE	LEG.	

	TYPE OF EXPENDITURE	1	2	AMOUNT 3
4	PERSONAL SERVICES: SALARY $1,393/month		16.7	
5	BENEFITS		2.6	
6	[redacted]A		1.0	
7	HEALTH INS.		1.8	
8	TOTAL PERSONAL SERVICES	01		
9	TRAVEL	02		22.1
10	CONTRACTUAL	03		0
11	COMMODITIES	04		1.0
12	EQUIPMENT	05		0
13	OTHER space costs			2.7
14	TOTAL COST			25.8

	CODE	FUNDING SOURCE	
15		FED RCPTS. 1002	
16		GF MATCH. 1003	
17		GEN. FUND 1004	25.8
18		I-A RCPTS. 1005	
19		PGM RCPTS 1028	
20		OTHER	
21	CONTINUATION		
22	ADDITION	X	

FOR B&M USE ONLY

AA KEY NUMBER _____ COLUMN NO. _____

JUSTIFICATION:

See Bill Analysis and Fiscal Note to House Bill 325.

AGENCY Commerce and Economic Development PROGRAM Consumer Protection

BRU Banking and Securities

COMPONENT Financial Institutions

13 REQUEST FOR NEW POSITION

Page _____ of _____ REVISED DATE _____

FY 82

01-1126(R/NO)

Bristol Bay Native Corporation
445 E. 5TH AVENUE / P. O. BOX 220 / ANCHORAGE / ALASKA 99510 / PH. (907) 278-3602

April 1, 1981

STATEMENT BY DONALD F. NIELSEN
IN SUPPORT OF HOUSE BILL NO. 325

My name is Donald F. Nielsen. I am the Vice President of Bristol Bay Native Corporation. Today, I am speaking on behalf of Bristol Bay Native Corporation and the Alaska Federation of Natives. Both organizations support House Bill No. 325 entitled "An Act relating to orders under the Alaska Securities Act of 1959." This bill would expand the remedies the State has in dealing with false and misleading statements made in proxy solicitations of Native corporation shareholders.

By way of background, let me state that Alaska Native Claims Settlement Act corporations are exempt from federal securities laws. Instead, their proxy solicitations are governed solely by the State of Alaska. Recently, the State took a major step to insure fairness in proxy solicitations of Native shareholders. The mechanism to insure fairness was regulations under Alaska Statute 45.55.139 and 160. These new regulations require that proxy solicitations give Natives shareholders the type of information that is necessary for them to make an informed judgment before voting on matters presented for their consideration, such as election of directors or approval

of proposals. These regulations are comprehensive and reasonable. However, without adequate enforcement, they are meaningless.

At present, the State is sure of only two enforcement alternatives: (1) a criminal proceeding under Alaska Statute 45.55.210 with a fine, jail term or both, or (2) a civil proceeding with injunctive relief. One is, in many cases, too harsh a remedy, and the other is time consuming.

A prompt enforcement alternative is needed with a range of lesser penalties. Such a solution is embodied in House Bill No. 325. First, it applies to administrative hearings which are less expensive and time consuming for all. Second, its penalties are not harsh fines or jail sentences, but pre-distribution review of solicitation materials and/or voiding of proxies where there is a finding of false or misleading statements.

Bristol Bay Native Corporation believes that the new proxy regulations need to be enforced promptly for the protection of Native shareholders. We believe that House Bill No. 325 creates the opportunity for such prompt enforcement. Therefore, we support the passage of House Bill No. 325.

report to its stockholders containing substantially all the information contained in annual reports of corporations subject to the 1934 Act. Such reports by Native corporations would not be filed with or reviewed by the SEC, but the Committee believes that the Native leadership will comply fully with the intent of this provision and will submit annual reports to their stockholders which are as effective in disclosing corporate activities as those prepared by companies regulated under the 1934 Act by the SEC. Finally, the Committee understands that the general provisions of Alaska law provide protection for Native stockholders from any corporate mismanagement and misrepresentations or omissions to represent in connection with sales of securities, and that Alaska courts would look to precedents under federal securities laws for appropriate standards of conduct by management and other persons connected with securities transactions. Native corporations have assured the Committee that they do not intend to seek an exemption from state securities laws on the basis of this exemption from federal laws and intend to pursue the passage of State legislation to the extent necessary to provide any appropriate additional protection. Therefore, it is not necessary at this time to impose additional federal requirements.

It should be noted that these corporations are being exempted from the federal securities laws on the understanding that federal regulation of Settlement Act corporations is not necessary to protect Native stockholders or the public during the twenty-year period when Native-owned stock cannot be sold. However, if this assumption proves invalid in light of experience, the Committee is prepared to re-impose such provisions of the federal laws as may be necessary. In short, the twenty-year exemption should be viewed by the Natives as an experiment which will be stopped if it is abused.

SECTION 4

Subsection (a) merely makes clear the congressional intent that payments and grants under the Settlement Act are not to be deemed a substitute for any governmental program or benefit which is otherwise available to Alaska Natives as citizens of the United States and Alaska.

Subsection (b) makes clear that benefits under the Settlement Act shall not be considered as income or other resources for purposes of the Food Stamp program. The background to subsection (b) is provided in an August 6, 1974, memorandum prepared by the Congressional Research Service of the Library of Congress:

THE LIBRARY OF CONGRESS, WASHINGTON, D.C. 20540

THE COUNTING OF INCOME FROM PAYMENTS UNDER THE ALASKA NATIVE CLAIMS SETTLEMENT ACT IN DETERMINING ELIGIBILITY FOR AND THE AMOUNT OF FOOD STAMP AND CASH WELFARE BENEFITS

Food Stamps

In March 1974, the State of Alaska notified the Federal offices of the Food Stamp Program (in the USDA's Food and Nutrition Service) that it was Alaska's interpretation that

[illegible] S. HAMMOND
GOVERNOR

STATE OF ALASKA
OFFICE OF THE GOVERNOR
NOME

March 19, 1981
Myrtle Johnson
Special Assistant
P.O. Box 25
Nome, Alaska 99762

State Banking & Securities Office
ATTN: James Thomson
Pouch D
Juneau, Alaska 99811

Dear James,

Enclosed you will find a complete proxy packet that was mailed to all Stockholders enrolled to Sitnasuak. And this was all we received. Note postmark March 2nd/meeting was March 14th.

Here are the concerns of the Shareholders:

1. The motion that was made to postpone the meeting, reason not enough time had been allowed for the proxy's and the way of filing of the conflict of interest plus the proxy statement forms had not been made available. Also the proxy enclosed in the packet had no blank line for write-ins.

This motion was ruled out of order by the Legal Council for the Sitnasuak Corp.

The motion or second never were cancelled out. They were left hanging fire.

2. At the end of the Election the Shareholders in attendance would not accept the results of the Election.

3. A shareholders meeting was called and they decided to challenge the meeting. Immediately after the Annual meeting was adjourned.

4. A Shareholders info meeting was calledthe next Tuesday after the meeting. 145 shareholders in attendance and voiced their concerns of the Election and Meeting. Since Juneau had already been called Monday of this week and they requested more info concerning the proxy's we would send all info gathered this evening to Juneau. It was noted the highest voter getter, went around telling every one she was for disbursement and when the time came to show of hands who was for disbursement she held her hand up against disbursement. After she had all the proxy votes in hand. One shareholder told how he illegally voted his sons ballot, by signing his name to the ballot, he knew it had no time to get to the North slope and back in time for the meeting. (Attached is the concerns from that evening's meeting.)

5. An Organizational meeting of the new Board was held 3-18-81 at the Sitnasuak Office. As the meeting began one shareholder voiced the Shareholders were challenging the Election results and this meeting was illegal. The Board members said we don't care and went on with the meeting, electing officers and etc.

of proposals. These regulations are comprehensive and reasonable. However, without adequate enforcement, they are meaningless.

At present, the State is sure of only two enforcement alternatives: (1) a criminal proceeding under Alaska Statute 45.55.210 with a fine, jail term or both, or (2) a civil proceeding with injunctive relief. One is, in many cases, too harsh a remedy, and the other is time consuming.

A prompt enforcement alternative is needed with a range of lesser penalties. Such a solution is embodied in House Bill No. 325. First, it applies to administrative hearings which are less expensive, and time consuming for all. Second, its penalties are not harsh fines or jail sentences, but pre-distribution review of solicitation materials and/or voiding of proxies where there is a finding of false or misleading statements.

Bristol Bay Native Corporation believes that the new proxy regulations need to be enforced promptly for the protection of Native shareholders. We believe that House Bill No. 325 creates the opportunity for such prompt enforcement. Therefore, we support the passage of House Bill No. 325.

OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department	Sponsor (Principal)	Bill Number
Commerce and Economic Development	Adams	HB 325

Department Position:
Approve with amendments as noted.

Division Director	Date	Commissioner	Date
William F Kurlpatrick	3/18/81		

GOVERNOR'S OFFICE USE

Comments:

☐ Position Noted | By | Date

SUMMARY

1. a) Related Bills (Similar or Conflicting)
None

1. b) Other Agencies Affected by Bill
None

2. a) Organizational Support for Bill
Alaska Federation of Natives
Various regional corporations

2. b) Organizational Opposition to Bill
None known

3. Program Effects of Bill
Provides Administrator of Securities with proper authority to enforce deceptive and fraudulent practices in proxy solicitations. This bill corrects the lack of administrative remedies in AS 45.55.139, enacted in 1977.

4. Fiscal Impact: ☐ None ☒ Fiscal Note Attached

5. Amendments Proposed:
Addition of the words "in filings under Section 139" immediately after Section 45.55.200(a)(1)(B) and immediately after Section 45.55.200(a)(1)(C).

6. Comments:
See attached.

Bill Analysis

HB 525

The intention of adding the two new sections, B and C, to AS 45.55.200(a) is to provide proper enforcement for violations of Section 160 by companies described in Section 139 only. The legislation, as introduced, does not limit the Administrator's authority to proxy solicitations by ANCSA corporations. In fact, it would permit the Administrator to take action against the GM's and IBM's even though the Alaska Securities Act does not otherwise provide such authority as their proxy solicitations are already fully regulated under the Federal Securities Act of 1934.

With the proposed language added, the Division of Banking and Securities would be in support of this legislation to clarify and provide adequate authority over misleading and fraudulent proxy solicitations by Native corporations.

COMMITTEE REPORT

SENATE

FURTHER: Judiciary

4/16/81

Date: 11 May 1981

Mr. President:

The Committee on LABOR & COMMERCE has had CSHB 325 (L&C)
Alaska Securities Act of 1959

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

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

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

and recommends _____

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

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

H Ahman

Bob Ruhrbaugh

THis Bill does have Fiscal Impact

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Bob Ruhrbaugh
CHAIRMAN

Official Business

Alaska State Legislature

Senate

Committee on Labor & Commerce

Pouch V
State Capitol
Juneau, Alaska 99811

COMMITTEE MINUTES: 11 May, 1981

The Senate Committee on Labor and Commerce was called to order by Senator Mulcahy; Senator Fahrenkamp had been excused from a call on the Senate. Senator Mulcahy announced that HB 214 am would be the first order of business.

Representative Brown, sponsor of the bill, provided an over view of the bill and its amendment, urging passage. Don Koch, Division of Insurance, gave testimony in support of the bill and offered to entertain questions of the committee.

Next on the agenda was CS HB 124, addressed by Judy Knight, Department of Labor, expressing the Department's support of the bill, and explaining the provision granting authority to the commissioner for waiving the bonding requirements for those "mom and pop" operations which neither purchase fish nor use employees. The bill further provides penalties for those cash buyers who are un-bonded (class A misdemeaner) and that both the Departments of Labor and Fish and Game support this concept. For the record, Senator Mulcahy explained that he and Dale Cheek (Dept. of Labor) had discussed this bill at length. The next testimony given was from Dan Moore, a cash buyer, who felt that the bonding requirements were restrictive to small businessmen, and he proposed some amendments for those operations which complied with the "spirit" of the intent. Along with his proposed exemption amendments, he questioned the various effective dates provided for in the bill, hoping to amend the effective date in Section 2. Senator Mulcahy explained the rationale for having the December 31st effective date. Roger Painter, UFA, spoke next, expressing support for the bill, urging passage.

CSHB 325 was addressed by Willis Kirkpatrick, Divsio. of Banking Securities, explained that the bill would allow for remedial actions

for fraudulent proxy solicitations in Native Corporations. Various Native Corporations have expressed the need to address the problem of proxy solicitations and this bill would allow the Department to expedite measures thru examination of proxies rather than injunctive operations. The bill inadvertantly passed the House without the attendant fiscal note, and Mr. Kirkpatrick clarified the fiscal note distributed to the L&C committee explaining the requirement of additional staff for assisting with proxies at Native stock holders meetings. He urged passage of the bill.

SB 552 was addressed by Senator Mulcahy who expounded on the specific problem in the Kodiak community and around the State, where "live-in" parents in certain institutions are impacted by the wage and hour act, while working an on call (24 hr.) shift. Bob Smathers, Department of Labor, explained that while the Department supports the bill, there may be problems with the Federal Government. The bill only addresses couples (married), and Mr. Smathers offered some proposed changes. Judy Knight, DOL, expressed concern with the language, and Senator Mulcahy suggested we hold the bill until the appropriate amendments have been drafted.

HB 214am, CSHB 124, and CSHB 325 were moved from committee with individual recommendations. Senator Mulcahy adjourned the meeting at 3:25pm.

a suit a law pursuant to the federal Act. To the extent of an inconsistency between a provision of this Act and a provision of AS 10.05 or 10.20, this Act prevails with regard to a corporation organized under Alaska law pursuant to the federal Act."

Sec. 45.55.139. Reports of corporations. A copy of all annual reports, proxies, consents or authorizations, proxy statements and other materials relating to proxy solicitations distributed, published or made available by any person to at least 30 Alaska resident shareholders of a corporation which has total assets exceeding $1,000,000 and a class of equity security held of record by 500 or more persons and which is exempted from the registration requirements of AS 45.55.070 by AS 45.55.138, shall be filed with the administrator concurrently with its distribution to shareholders. (§ 1 ch 58 SLA 1977)

For case construing common law prohibition of materially false and misleading statements in proxy solicitations, see Brown v. Ward, Sup. Ct. Op. No. 1826 (File No. 3579), 593 P.2d 247 (1979).

Sec. 45.55.140. Exemptions. (a) The following securities are exempted from AS 45.55.070:

(1) a security, including a revenue obligation, issued or guaranteed by the United States, a state, a political subdivision of a state, or an agency or corporate or other instrumentality of one or more of the foregoing; or a certificate of deposit for any of the foregoing;

(2) a security issued or guaranteed by Canada, a Canadian province, a political subdivision of a Canadian province, an agency or corporate or other instrumentality of one or more of the foregoing, or a foreign government with which the United States currently maintains diplomatic relations, if the security is recognized as a valid obligation by the issuer or guarantor;

(3) a security issued by and representing an interest in or a debt of, or guaranteed by, a bank organized under the laws of the United States, or a bank, savings institution, savings and loan association, building and loan association, or trust company organized and supervised under the laws of a state or of the United States;

(4) a commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or a guarantee of the paper or of the renewal, if the commercial paper is of the type eligible for discount by a federal reserve bank;

(5) an investment contract issued in connection with an employee's

...this chapter, the burden of proving ... ...on a defendant is upon the per...

...by order deny or revoke an exemptio... ...this section or in (b) of this section wit... ...or transaction. The order may not be ... ...prior notice to all interested parties ... ...findings of fact and conclusions ... ...ation may by order summarily deny or ... ...emptions pending final determination of ... ...ection. Upon the entry of a summary ... ...promptly notify all interested parties ... ...the reasons for it and that within 15 ... ...request the matter will be set down for ... ...quested and none is ordered by the ... ...in effect until it is modified or vacated ... ...hearing as requested or ordered, the ... ...and opportunity for hearing to all ... ...or vacate the order or extend it until ...

...section may operate retroactively. No ... ...have violated AS 45.55.070 or 45.55.130 ... ...before the entry of an order under ... ...burden of proof that he did not know, ...due care could not have known of the ...

...regulation prescribe a schedule of fees ... ...of claimed exemption. (§ 302 ch 198 ... ...SLA 1961; am § 1 ch 8 SLA 1966; am ... ...13 ch 86 SLA 1972; am § 15 ch 218 ... ...SLA 1977; am § 1 ch 56 SLA 1978; am ...

...06 ...disadvantage," substituted "sold" for ... ...by "offered" near the middle of the ... ...subparagraph, and substituted "any sales ... ...are" for "the offer of" near the end of the ... ...subparagraph.

...Legislative history reports. For ... ...report on ch. 8, SLA 1966, see House ... ...Journal (1966), p. 169. For report on ch. ... ...132, SLA 1977 (SB 18), see 1977 Senate ... ...Journal, p. 120.

...ALR references. What securities are ... ...exempt from registration under § 402(a) ... ...of the Uniform Securities Act, 84 ALR3d ...

Sec. 45.55.150. Filing of sales and advertising literature. The administrator may by rule or order require the filing of a prospectus, pamphlet, circular, form letter, advertisement, or other sales literature, or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser. (§ 303 ch 198 SLA 1959; am § 12 ch 86 SLA 1961; am § 14 ch 86 SLA 1972)

Sec. 45.55.160. Misleading filings. It is unlawful for a person, in a document filed with the administrator or in a proceeding under this chapter, to make or cause to be made an untrue statement of a material fact or to omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading. (§ 304 ch 198 SLA 1959; am § 15 ch 86 SLA 1972)

Materiality under common law. — Under Alaska common law, a misrepresentation is material if there is a substantial likelihood that a reasonable shareholder would consider it important in deciding how to vote. Subjective proof that one or more shareholders actually granted a proxy because of a falsehood is not required; only the objective standard encompassed in the definition of materiality need be met. Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

Proxy solicitations held materially false. — Where the misrepresented ability of a regional corporation to distribute money or land to shareholders on the large scale expressed in the solicitation would be likely to influence shareholders to grant proxies to the solicitor, the proxy solicitations were materially false as a matter of law. Brown v. Ward, Sup. Ct. Op. No. 1825 (File No. 3579), 593 P.2d 247 (1979).

ALR and C.J.S. references. — Attorney's preparation of legal document incident to sale of securities as rendering him liable under state securities regulations statutes, 62 ALR3d 252.

19 C.J.S. Corporations §§ 931, 1364; 53 C.J.S. Licenses § 78.

Sec. 45.55.170. Unlawful representations concerning registration or exemption. (a) Neither the fact that an application for registration under AS 45.55.030—45.55.060 or a registration statement under AS 45.55.070—45.55.120 is filed nor the fact that a person or security is effectively registered constitutes a finding by the administrator that a document filed under this chapter is true, complete, and not misleading. Neither the fact of filing nor the fact that an exemption or exception is available for a security or a transaction means that the administrator has passed in any way upon the merits or qualifications of, or recommended or given approval to, a person, security, or transaction.

(b) It is unlawful to make, or cause to be made, to a prospective purchaser, customer, or client any representation inconsistent with (a) of this section. (§ 305 ch 198 SLA 1959; am § 13 ch 105 SLA 1...

per diem incurred in connection with an examination incident to registration under this chapter.

(b) The administrator may by rule or order adopt a schedule of charges for annual examination fees of issuers, broker-dealers, agents and investment advisers.

(c) If an issuer, broker-dealer, agent or investment adviser fails to pay the fees and expenses provided for in this section, the fees and expenses shall be paid out of the funds of the administrator in the same manner as other disbursements made by the administrator. The amounts paid from the funds of the administrator are a lien upon all of the assets and property in this state of the issuer, broker-dealer, agent or investment adviser and the amount may be recovered by the attorney general on behalf of the state.

(d) Failure of the issuer, broker-dealer, agent or investment adviser to pay fees and expenses under this section is a wilful violation of this chapter and the violation falls within the provisions of AS 45.55.060, 45.55.120, 45.55.200 and 45.55.210. (§ 16 ch 86 SLA 1972)

Sec. 45.55.200. Orders and injunctions. Whenever it appears to the administrator that a person has engaged or is about to engage in an act or practice in violation of any provision of this chapter or rule or order under this chapter, he may

(1) if he considers it in the public interest or for the protection of investors, issue an order directing the person to cease and desist from continuing the act or practice, provided that reasonable notice of and an opportunity for a hearing shall first be given, except that the administrator may issue a temporary order pending the hearing which shall remain in effect until 10 days after the hearing is held and which shall become final if the person to whom notice is addressed does not request a hearing within 15 days after the receipt of notice; or

(2) bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or rule or order under this chapter, and upon a proper showing, the appropriate remedy shall be granted and a receiver or conservator may be appointed for the defendant or the defendant's assets; the court may not require the administrator to post a bond. (§ 308 ch 198 SLA 1959; am § 1 ch 126 SLA 1968)

Sec. 45.55.210. Criminal penalties. (a) A person who wilfully violates a provision of this chapter except AS 45.55.160, or who wilfully violates a rule or order under this chapter, or who wilfully violates AS

FISCAL NOTE

I. REQUEST
Bill/Resolution No. House Bill 325
Title An Act Relating to Orders Under the Alaska Securities Act of 1959
Requested by Adams Date 3/21/81

II. FISCAL DETAIL
Agency Affected Commerce and Economic Development
Program Category Affected Consumer Protection
BRU, Program, or Subprogram(s) Affected Banking and Securities
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

		FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100	PERSONAL SERVICES		22.1	23.4	24.8	26.3	27.9
200	TRAVEL		10.0	10.5	11.0	11.5	12.0
300	CONTRACTUAL		2.7	2.7	2.7	2.7	2.7
400	COMMODITIES		1.0	1.0	0	0	0
500	EQUIPMENT						
600	LAND & STRUCTURES						
700	GRANTS, CLAIMS, ETC.						
	TOTAL	0	35.8	37.6	38.5	40.5	42.6

FUNDING (Thousands of Dollars)

GENERAL FUND	0	35.8	37.6	38.5	40.5	42.6
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		1	1	1	1	1
PART TIME		0	0	0	0	0
TEMPORARY		0	0	0	0	0

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

See attached.

IV. DATE 3/16/81 PREPARED BY James I. Thompson Lil Lunsford
AGENCY Dept. of Commerce & Econ. Dev.
PHONE 465 2521

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

33 001 (Rev. 12/80

HB

386

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

November 19, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSHB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 386, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 820, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSHB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSHB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

08-H2LH

SB 606 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,

Lois J. Cook

Lois J. Cook
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

ALASKA INTERSTATE COMPANY
510 L STREET-SUITE 411
ANCHORAGE, ALASKA 99501
(907) 276-8600

RICHARD F. BARNES
VICE PRESIDENT

October 29, 1981

Hon. Bob Mulcahy, Chairman
Senate Labor and Commerce Committee
Box 246
Kodiak, Alaska 99615

Dear Senator Mulcahy:

Enclosed is a copy of a bill that was introduced at our request last March in the House Labor and Commerce Committee. If the House acts on the matter this next season we will need your help on the Senate side to pass the legislation.

The measure extends the statutory period for delivering shareholder notices and soliciting proxies from fifty to sixty days. The sixty-day period is now standard in most states.

Like other Alaska corporations, we face a hectic period soliciting a sufficient number of proxies to represent a quorum at shareholder meetings. This timing problem is compounded by shares held in "street name" at brokerage houses, which must forward the information to the respective owners.

If the bill does come before your committee, we would appreciate favorable consideration of its merit. If you desire additional information or need testimony on the issue, we would be pleased to work with you. I have discussed this legislation with Terry Martin, Chairman of the House Labor and Commerce committee. He indicated that the bill (HB 386) may be acted on early in the session and sent to the Senate.

Our primary Alaskan operation provides natural gas service to homes and businesses in the Kenai Peninsula Borough and the Municipality of Anchorage. I have included a copy of last year's annual report describing the gas company and our other operations, for your information.

Very truly yours,

R F Barnes

Encs.
cc: Hon. Terry Martin

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

HB 386 (by the House Labor and Commerce Committee)

Amends two sections of AS 10.05, the Alaska Business Corporation Act. Chapter relates to corporations which provide small business investments through participation in the Federal Small Business Investment Act of 1958. Bill amends Sec.141, "Notice of Share holder's Meetings," to require notice to be delivered not less than 10 or more than 60 (currently 50) days before the date of the meetings. Also amends Sec 144, "Closing of Transfer Books and Fixing Record date," to allow the board of directors of a corporation to provide that the stock transfer books be closed for a stated period not exceeding 60 days (currently 50 days). Instead of closing the stock transfer books, the bylaws or the Board may fix in advance a date as the record date for the determination of shareholders. Bill amends section to state that record date must not be more than 60 days (currently 50 days) and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of the shareholders is to be taken.. No effective date.

tenth of all the shares entitled to vote at the meeting, or the other officers or persons provided in the articles of incorporation or the bylaws. (§ 26 ch 126 SLA 1957)

ALR references. — Power of directors to change time for stockholders' meetings, 2 ALR 58; 8 ALR 678.

Sec. 10.05.141. Notice of shareholders' meetings. Written or printed notice stating the place, day and hour of the meeting and, in case of a special meeting, the purpose for which the meeting is called, shall be delivered not less than 10 nor more than 50 days before the date of the meeting, either personally or by mail, by or at the direction of the president, the secretary, or the officer or persons calling the meeting, to each shareholder of record entitled to vote at the meeting. If mailed, the notice is considered delivered when deposited in the United States mail addressed to the shareholder at his address as it appears on the stock transfer books of the corporation, with postage prepaid. (§ 27 ch 126 SLA 1957)

ALR and C.J.S. references. — Validity of action taken at stockholders' meeting as affected by lack of notice, 51 ALR 941.

Informality of notice as affecting action taken at meeting, 51 ALR 941.
18 C.J.S. Corporations § 544.

Sec. 10.05.144. Closing of transfer books and fixing record date. (a) To determine the shareholders entitled to notice of or to vote at a meeting of shareholders or an adjournment of a meeting, or entitled to receive payment of a dividend, or in order to make a determination of shareholders for any other proper purpose, the board of directors of a corporation may provide that the stock transfer books shall be closed for a stated period not exceeding 50 days. If the stock transfer books are closed to determine shareholders entitled to notice of or to vote at a meeting of shareholders, they shall be closed for at least 10 days immediately preceding the meeting.

(b) Instead of closing the stock transfer books, the bylaws, or in the absence of an applicable bylaw the board of directors, may fix in advance a date as the record date for the determination of shareholders. This record date shall be not more than 50 days and, in case of a meeting of shareholders, not less than 10 days before the date on which the particular action requiring the determination of shareholders is to be taken. If the stock transfer books are not closed and no record date is fixed for the determination of shareholders entitled to notice of or to vote at a meeting of shareholders, or shareholders entitled to receive payment of a dividend, the date on which notice of the meeting is mailed or the date on which the resolution of the board of directors declaring the dividend is adopted is, as the case may be, the record date for the determination of shareholders. When a determination of shareholders entitled to vote at a meeting of shareholders is made, the

determination applies to an adjournment of the meeting except where the determination has been made through the closing of the stock transfer books and the stated period of closing has expired. (§ 28 ch 126 SLA 1957)

Sec. 10.05.147. Voting list. (a) At least 10 days before each meeting of shareholders, the officer or agent having charge of the stock transfer books for shares of a corporation shall make a list of the shareholders entitled to vote at the meeting or an adjournment of the meeting, arranged in alphabetical order, with the address of and the number of shares held by each. The list shall be kept on file at the registered office of the corporation and is subject to inspection by a shareholder at any time during usual business hours for a period of 10 days prior to the meeting. The list shall also be produced and kept open at the time and place of the meeting and shall be subject to the inspection of a shareholder during the meeting. The original stock transfer books are prima facie evidence as to who are the shareholders entitled to examine the list or transfer books or to vote at a meeting of shareholders.

(b) Failure to comply with the requirements of this section does not affect the validity of the action taken at the meeting. (§ 29 ch 126 SLA 1957)

Sec. 10.05.150. Liability for violation of § 147 of this chapter. An officer or agent having charge of the stock transfer books who fails to prepare the list of shareholders, or keep it on file for a period of 10 days, or produce and keep it open for inspection at the meeting, as provided in § 147 of this chapter, is liable to a shareholder suffering damage because of the failure, to the extent of the damage. (§ 29 ch 126 SLA 1957)

Sec. 10.05.153. Quorum of shareholders. Unless otherwise provided in the articles of incorporation, a majority of the shares entitled to vote, represented in person or by proxy, constitutes a quorum at a meeting of shareholders. However, in no event may a quorum consist of less than one-third of the shares entitled to vote at the meeting. If a quorum is present, the affirmative vote of the majority of the shares represented at the meeting and entitled to vote on the subject matter is the act of the shareholders, unless the vote of a greater number or voting by classes is required by this chapter or the articles of incorporation or the bylaws. (§ 30 ch 126 SLA 1957)

Sec. 10.05.156. Voting of shares. (a) Each outstanding share, regardless of class, is entitled to one vote on each matter submitted to a vote at a meeting of shareholders, except to the extent that the voting rights of the shares of a class are limited or

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 386

Title An Act Relating to Business Corporations

Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Corporations

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE November 12, 1981 PREPARED BY Willis F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

HB
504

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

HB 504:

Section 1:

(a) In a collective bargaining agreement between an employer and a labor organization, a successor clause is binding on a successor employer unless more than three years have lapsed after the effective date contained in the clause.

(b) This section does not apply to a receiver or trustee in bankruptcy of an employer who has gone into bankruptcy or receivership; or an employer who acquires a business from a receiver or trustee in bankruptcy, or an employer who is subject to:

(1) National Labor Relations Act

(2) Agricultural Labor Relations Act of 1975

(3) Railway Labor Act

(4) Public Employment Relations Act (AS 23.40.070-.260)

(c) "successor clause" means a clause in a collective bargaining agreement which states that the agreement remains in effect in the event of a transfer of the business to a successor employer.

"successor employer" means a purchaser, assignee, or transferree of a business which is operated subject to collective bargaining between a labor organization and a prior employer, if the purchaser conducts substantially the same business, or offers the same service, and uses the same facilities as the employer who entered into the original collective bargaining agreement.

Article 2. Public Employment Relations Act.

Section
70. Declaration of policy
80. Rights of public employees
90. Collective bargaining unit
100. Representatives and elections
110. Unfair labor practices
120. Investigation and conciliation of complaints
130. Complaint and accusation
140. Orders and decisions
150. Enforcement by injunction
160. Power to investigate and compel testimony
170. Regulations
180. Penalty for violation of order or decision
190. Mediation
200. Arbitration
210. Agreement
215. Funding
220. Labor or employee organization dues and employee benefits, deduction and authorization
230. Assistance by Department of Labor
240. Effect on certain units, representatives and agreements
250. Definitions
260. Short title

Editor's note.—Section 4, ch. 113, SLA 1972, provides: "This Act is applicable to organized boroughs and political subdivisions of the state, home rule or otherwise, unless the legislative body of the political subdivision, by ordinance or resolution, rejects having its provisions apply."

Sec. 23.40.070. Declaration of policy. The legislature finds that joint decision-making is the modern way of administering government. If public employees have been granted the right to share in the decision-making process affecting wages and working conditions, they have become more responsive and better able to exchange ideas and information on operations with their administrators. Accordingly, government is made more effective. The legislature further finds that the enactment of positive legislation establishing guidelines for public employment relations is the best way to harness and direct the energies of public employees eager to have a voice in determining their conditions of work, to provide a rational method for dealing with disputes and work stoppages, to strengthen the merit principle where civil service is in effect and to maintain a favorable political and social environment. The legislature declares that it is the public policy of the state to promote harmonious and cooperative relations between government and its employees and to protect the public by assuring effective and orderly operations of government. These policies are to be effectuated by

(1) recognizing the right of public employees to organize for the purpose of collective bargaining;

(2) requiring public employers to negotiate with and enter into written agreements with employee organizations on matters of wages, hours, and other terms and conditions of employment;

(3) maintaining merit-system principles among public employees. (§ 2 ch 113 SLA 1972)

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Sec. 23.40.080. Rights of public employees. Public employees may self-organize and form, join or assist an organization to bargain collectively through representatives of their own choosing, and engage in concerted activities for the purpose of collective bargaining or other mutual aid or protection. (§ 2 ch 113 SLA 1972)

Sec. 23.40.090. Collective bargaining unit. The labor relations agency shall decide in each case, in order to assure to employees the fullest freedom in exercising the rights guaranteed by §§ 70—260 of this chapter, the unit appropriate for the purposes of collective bargaining, based on such factors as community of interest, wages, hours and other working conditions of the employees involved, the history of collective bargaining, and the desires of the employees. Bargaining units shall be as large as is reasonable, and unnecessary fragmenting shall be avoided. (§ 2 ch 113 SLA 1972)

Sec. 23.40.100. Representatives and elections. (a) The labor relations agency shall investigate a petition if it is submitted in a manner prescribed by the labor relations agency and is

(1) by an employee or group of employees or an organization acting in their behalf alleging that 30 per cent of the employees of a proposed bargaining unit

(A) want to be represented for collective bargaining by a labor or employee organization as exclusive representative, or

(B) assert that the organization which has been certified or is currently being recognized by the public employer as bargaining representative is no longer the representative of the majority of employees in the bargaining unit; or

(2) by the public employer alleging that one or more organizations have presented to it a claim to be recognized as a representative of a majority of employees in an appropriate unit.

(b) If the labor relations agency has reasonable cause to believe that a question of representation exists, it shall provide for an appropriate hearing upon due notice If the labor relations agency finds that there is a question of representation, it shall direct an election by secret ballot to determine whether or by which organization the employees desire to be represented and shall certify the results of the election. Nothing in this section prohibits the waiving of hearings by stipulation for the purpose of a consent election in conformity with the regulations of the labor relations agency or an election in a bargaining unit agreed upon by the parties. The labor relations agency shall determine who is eligible to vote in an election and shall establish rules governing the election. In an election in which none of the choices on the ballot receives a majority of the votes cast, a runoff election shall be conducted, the ballot providing for selection between the two choices receiving the largest and the second largest number of valid votes cast in the

election. If an organization receives the majority of the votes cast in the election it shall be certified by the labor relations agency as exclusive representative of all the employees in the bargaining unit.

(c) An election may not be held in a bargaining unit or in a subdivision of a bargaining unit if a valid election has been held within the preceding 12 months.

(d) Nothing in this chapter prohibits recognition of an organization as the exclusive representative by a public agency by mutual consent.

(e) No election may be directed by the labor relations agency in a bargaining unit in which there is in force a valid collective bargaining agreement, except during a 90-day period preceding the expiration date. However, no collective bargaining agreement may bar an election upon petition of persons in the bargaining unit but not parties to the agreement if more than three years have elapsed since the execution of the agreement or the last timely renewal, whichever was later. (§ 2 ch 113 SLA 1972)

Sec. 23.40.110. Unfair labor practices. (a) A public employer or his agent may not

(1) interfere, restrain or coerce an employee in the exercise of his rights guaranteed in § 80 of this chapter;

(2) dominate or interfere with the formation, existence or administration of an organization;

(3) discriminate in regard to hire or tenure of employment or a term or condition of employment to encourage or discourage membership in an organization;

(4) discharge or discriminate against an employee because he has signed or filed an affidavit, petition or complaint or given testimony under §§ 70—260 of this chapter;

(5) refuse to bargain collectively in good faith with an organization which is the exclusive representative of employees in an appropriate unit, including but not limited to the discussing of grievances with the exclusive representative.

(b) Nothing in this chapter prohibits a public employer from making an agreement with an organization to require as a condition of employment

(1) membership in the organization which represents the unit on or after the 30th day following the beginning of employment or on the effective date of the agreement, whichever is later; or

(2) payment by the employee to the exclusive bargaining agent of a service fee to reimburse the exclusive bargaining agent for the expense of representing the members of the bargaining unit.

(c) A labor or employee organization or its agents may not

(1) restrain or coerce

(A) an employee in the exercise of the rights guaranteed in § 80 of this chapter, or

(B) a public employer in the selection of his representative for the purposes of collective bargaining or the adjustment of grievances;

(2) refuse to bargain collectively in good faith with a public employer, if it has been designated in accordance with the provisions of §§ 70—260 of this chapter as the exclusive representative of employees in an appropriate unit. (§ 2 ch 113 SLA 1972)

Sec. 23.40.120. Investigation and conciliation of complaints. If a verified written complaint by or for a person claiming to be aggrieved by a practice prohibited by § 110 of this chapter, or a written accusation that a person subject to §§ 70—260 of this chapter has engaged in a prohibited practice, is filed with the labor relations agency, it shall investigate the complaint or accusation. If it determines after the preliminary investigation that probable cause exists in support of the complaint or accusation, it shall try to eliminate the prohibited practice by informal methods of conference, conciliation, and persuasion. Nothing said or done during this endeavor may be used as evidence in a subsequent proceeding. (§ 2 ch 113 SLA 1972)

Sec. 23.40.130. Complaint and accusation. If the labor relations agency fails to eliminate the prohibited practice by conciliation and to obtain voluntary compliance with §§ 70—260 of this chapter, or, before it attempts conciliation, it may serve a copy of the complaint or accusation upon the respondent. The complaint or accusation and the subsequent procedures shall be handled in accordance with the administrative adjudication portion of the Administrative Procedure Act (AS 44.62). (§ 2 ch 113 SLA 1972)

Sec. 23.40.140. Orders and decisions. If the labor relations agency finds that a person named in the written complaint or accusation has engaged in a prohibited practice, the labor relations agency shall issue and serve on the person an order or decision requiring him to cease and desist from the prohibited practice and to take affirmative action which will carry out the provisions of §§ 70—260 of this chapter. If the labor relations agency finds that a person named in the complaint or accusation has not engaged or is not engaging in a prohibited practice, the labor relations agency shall state its findings of fact and issue an order dismissing the complaint or accusation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.150. Enforcement by injunction. The labor relations agency may apply to the superior court in the judicial district in which the prohibited practice occurred for an order enjoining the prohibited acts specified in the order or decision of the labor relations agency. Upon a showing by the labor relations agency that the person has engaged or is about to engage in the practice, an

injunction, restraining order, or other order which is appropriate may be granted by the court and shall be without bond. (§ 2 ch 113 SLA 1972)

Sec. 23.40.160. Power to investigate and compel testimony. (a) For the purpose of the investigations, proceedings, or hearings which the labor relations agency considers necessary to carry out the provisions of §§ 70—260 of this chapter, the labor relations agency may issue subpoenas requiring the attendance and testimony of witnesses and the production of relevant evidence.

(b) The labor relations agency may administer oaths, examine witnesses, and receive evidence.

(c) The attendance of witnesses and the production of evidence may be required from any place in the state at any designated place of hearing.

(d) If a person refuses to obey a subpoena issued under §§ 70—260 of this chapter, the superior court in the district in which the person resides or is found may, upon application by the labor relations agency, issue an order requiring him to comply with the subpoena. (§ 2 ch 113 SLA 1972)

Sec. 23.40.170. Regulations. The labor relations agency may adopt regulations under the Administrative Procedure Act (AS 44.62) to carry out the provisions of §§ 70—260 of this chapter. (§ 2 ch 113 SLA 1972)

Sec. 23.40.180. Penalty for violation of order or decision. A person who violates a provision of an order or decision of the labor relations agency is guilty of a misdemeanor and is punishable by a fine of not more than $500. (§ 2 ch 113 SL. 1972)

Sec. 23.40.190. Mediation. If, after a reasonable period of negotiation over the terms of a collective bargaining agreement, a deadlock exists between a public employer and an organization, the labor relations agency may appoint a competent, impartial, disinterested person to act as mediator in any dispute either on its own initiative or on the request of one of the parties to the dispute. The parties may also select a mediator by agreement or mutual consent. It is the function of the mediator to bring the parties together voluntarily under such favorable auspices as will tend to effectuate settlement of the dispute, but neither the mediator nor the labor relations agency has any power of compulsion in mediation proceedings. (§ 2 ch 113 SLA 1972)

Sec. 23.40.200. Arbitration. (a) For purposes of this section, public employees are employed to perform services in one of the three following classes:

(1) those services which may not be given up for even the shortest period of time;

(2) those services which may be interrupted for a limited period but not for an indefinite period of time; and

(3) those services in which work stoppages may be sustained for extended periods without serious effects on the public.

(b) The class in (a)(1) of this section is composed of police and fire protection employees, jail, prison and other correctional institution employees, and hospital employees. Employees in this class may not engage in strikes. Upon a showing by a public employer or the labor relations agency that employees in this class are engaging or about to engage in a strike, an injunction, restraining order, or other order which may be appropriate shall be granted by the superior court in the judicial district in which the strike is occurring or is about to occur. If an impasse or deadlock is reached in collective bargaining between the public employer and employees in this class, and mediation has been utilized without resolving the deadlock, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(c) The class in (a)(2) of this section is composed of public utility, snow removal, sanitation and public school and other educational institution employees. Employees in this class may engage in a strike after mediation, subject to the voting requirement of (d) of this section, for a limited time. The limit is determined by the interests of the health, safety or welfare of the public. The public employer or the labor relations agency may apply to the superior court in the judicial district in which the strike is occurring for an order enjoining the strike. A strike may not be enjoined unless it can be shown that it has begun to threaten the health, safety or welfare of the public. A court, in deciding whether or not to enjoin the strike, shall consider the total equities in the particular class. "Total equities" includes not only the impact of a strike on the public but also the extent to which employee organizations and public employers have met their statutory obligations. If an impasse or deadlock still exists after the issuance of an injunction, the parties shall submit to arbitration to be carried out under AS 09.43.030.

(d) The class in (a)(3) of this section includes all other public employees who are not included in the classes in (a)(1) or (a)(2) of this section. Employees in this class may engage in a strike if a majority of the employees in a collective bargaining unit vote by secret ballot to do so.

(e) Notwithstanding the provisions of (b), (c) and (d) of this section, the employees with the concurrence of the employer may agree in writing to submit a dispute arising from interpretation or application of a collective bargaining agreement to arbitration.

(f) The parties to a collective bargaining agreement may provide in the agreement a contract for arbitration to be conducted

solely according to the Uniform Arbitration Act (AS 09.43) if the Act is incorporated into the agreement or contract by reference. (§ 2 ch 113 SLA 1972)

Sec. 23.40.210. Agreement. Upon the completion of negotiations between an organization and a public employer, if a settlement is reached, the employer shall reduce it to writing in the form of an agreement. The agreement may include a term for which it will remain in effect, not to exceed three years. The agreement shall include a grievance procedure which shall have binding arbitration as its final step. Either party to the agreement has a right of action to enforce the agreement by petition to the labor relations agency. (§ 2 ch 113 SLA 1972)

Sec. 23.40.215. Funding. The monetary terms of any agreement entered into under the Public Employment Relations Act are subject to funding through legislative appropriation. (§ 2 ch 113 SLA 1972)

Sec. 23.40.220. Labor or employee organization dues and employee benefits, deduction and authorization. Upon written authorization of a public employee within a bargaining unit, the public employer shall deduct from the payroll of the public employee the monthly amount of dues, fees and other employee benefits as certified by the secretary of the exclusive bargaining representative and shall deliver it to the chief fiscal officer of the exclusive bargaining representative. (§ 2 ch 113 SLA 1972)

Sec. 23.40.230. Assistance by Department of Labor. When state employees are involved, the Department of Labor shall, if requested by the personnel board, and if there is no objection by the organization involved, assist the personnel board on matters such as, but not limited to, conducting elections and investigating unfair labor practices. (§ 2 ch 113 SLA 1972)

Sec. 23.40.240. Effect on certain units, representatives and agreements. Nothing in this chapter terminates or modifies a collective bargaining unit, recognition of exclusive bargaining representative, or collective bargaining agreement if the unit, recognition, or agreement is in effect on September 5, 1972. (§ 2 ch 113 SLA 1972)

Sec. 23.40.250. Definitions. In §§ 70—260 of this chapter, unless the context otherwise requires,

(1) "collective bargaining" means the performance of the mutual obligation of the public employer or his designated representatives and the representative of the employees to meet at reasonable times, including meetings in advance of the budget-making process and negotiate in good faith with respect to wages,

hours and other terms and conditions of employment, or the negotiation of an agreement, or negotiation of a question arising under an agreement and the execution of a written contract incorporating an agreement reached if requested by either party, but these obligations do not compel either party to agree to a proposal or require the making of a concession;

(2) "election" means a proceeding conducted by the labor relations agency in which the employees in a collective bargaining unit cast a secret ballot for collective bargaining representatives, or for any other purpose specified in §§ 70—260 of this chapter;

(3) "labor relations agency" means the state personnel board with regard to the state and employees of the state, and means the Department of Labor with regard to all other public employees and all other public employers;

(4) "organization" means a labor or employee organization of any kind in which employees participate and which exists for the primary purpose of dealing with employers concerning grievances, labor disputes, wages, rates of pay, hours of employment and conditions of employment;

(5) "public employee" means any employee of a public employer, whether or not in the classified service of the public employer, except elected or appointed officials or teachers or noncertificated employees of school districts;

(6) "public employer" means the state or a political subdivision of the state, including without limitation, a town, city, borough, district, board of regents, public and quasi-public corporation, housing authority or other authority established by law, and a person designated by the public employer to act in its interest in dealing with public employees;

(7) "terms and conditions of employment" means the hours of employment, the compensation and fringe benefits, and the employer's personnel policies affecting the working conditions of the employees; but does not mean the general policies describing the function and purposes of a public employer. (§ 2 ch 113 SLA 1972)

Sec. 23.40.260. Short title. Sections 70—260 of this chapter may be cited as the Public Employment Relations Act. (§ 2 ch 113 SLA 1972)

HB

524

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

PROPOSED INTEREST RATE CS:

1) Loans of $50 or less(60%)
2) Loans between $50 and $1,000 (36%)
3) Loans between $1,000 and $5,000 (24%)
4) Loans in excess of $5,000 and to $25,000: at a rate agreed upon by contract;

Loans categories to be adjusted in 10% increments based on 10% increases in the ANchorage CPI using November 1982 as the base period.

Late fee not to exceed 10% of the payment or $1: whichever is less;

NEW PROPOSED INTEREST RATE CS:

0 to $1,000: 36%
$1,000 to $10,000 24%
$10,000 to $25,000 at market rate

Late fee not to exceed 10% of the payment or $15, whichever is less;

PRESENTLY IN STATUTE

1) Loans of $50 or less (60%)
2) Loans between $50 and $500 (36%)
3) Loans between $500 and $1,000 (24%)
4) $1,000 to $25,000 (12%)
5) Open end loans between $5,000 and $25,000 the greater of 1½% per month (18%) or 8% points above the federal reserve discount rate on the first day of the month before the calendar quarter during which the loan is made.

Suggested amendments to CSHB 534

Page 1:

Line 14 - Strike ($500), insert $1,000.

Line 15 - Strike ($500), insert $1,000; strike ($1,000), insert $5,000.

Lines 15, 16, 17 - Delete (and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000.)

Line 26 - Strike (1978), insert 1982.

Page 2:

Line 6 - Strike (1978), insert 1982.

Add new section to bill as Section #5.

Sec. 5. AS 06.20.230(b) is amended to read:

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under A.S. 06.20.010 - 06.20.920 or who makes a loan under A.S. 06.20.010 - 06.20.920 exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest at any rate agreed upon by contract. (NOT TO EXCEED THE GREATER OF

(1) ONE AND ONE-HALF PERCENT A MONTH: OR

(2) EIGHT PERCENTAGE POINTS ABOVE THE FEDERAL RESERVE DISCOUNT RATE ON 90-DAY COMMERCIAL PAPER CHARGED TO BANKS FOR ADVANCES BY THE 12th FEDERAL RESERVE DISTRICT ON THE FIRST DAY OF THE MONTH BEFORE THE CALENDAR QUARTER DURING WHICH THE LOAN IS MADE.)

Sec. 6. This Act takes effect immediately in accordance with A.S. 01.10.070(c).

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 524 (L&C):

Amends the Small Loans Act with the addition of a new subsection relating to the maximum interest permitted for various loan amounts, and that the interest rates may be annually adjusted according to changes in the consumer price index.

LOAN AMOUNT CATEGORIES:

Interest rates based upon unpaid principal balance for the following categories:

1) Loans up to $50; 5% per month
2) Loans in excess of $50 but not exceeding $500; 3% per month
3) Loans in excess of $500 but not exceeding $1,000; 2% per month
4) Loans in excess of $1,000 but not exceeding $25,000; 1% per month

Consumer Price Index Adjustments

1) Adjustments shall be made if the change in the CPI for Anchorage is 10% or more using the Anchorage CPI for November 1978 as a base
2) Adjustments are to be made in 10% increments
3) An increase may not exceed 10% in one year
4) An adjustment may not result in a decrease of amounts for loan categories below the maximum amounts in effect on the effective date of this act
5) On or before March 1st, the Department of Commerce and Econ Dev shall publish changes
6) Adjustments are to be effective on April 1st of each year

If the method of calculating the CPI is revised by the US Department of Labor, the CPI for Anchorage (1978) as revised shall be used for computations.

Amends AS 06.20.260 with a new paragraph: "(a) No further or other charge or amount for any examination, service, brokerage commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged contracted for or received

except (6) A late payment fee of not more than 10% of the payment which is due or $15, whichever is less."

Section 4 of the bill changes the definition of consumer price index to include any revision of the CPI which the Bureau of Labor Statistics determines accurately reflects changes in the purchasing power of the dollar for consumers.

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF COMMERCE & ECONOMIC DEVELOPMENT

OFFICE OF THE COMMISSIONER

POUCH D
JUNEAU, ALASKA 99811
Phone: 465-2500

November 19, 1981

Honorable Bob Mulcahy
Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, Alaska 99811

Dear Senator Mulcahy:

Thank you for your request for a position statement and fiscal note on each of HB 386, CSHB 524 (L&C) and SB 606.

Fiscal notes are enclosed.

Our position on HB 386, an act relating to business corporations, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the substantive intent of the bill. The Department objects procedurally because a draft revision of AS 10.05 has been completed under the direction of the Code Revision Committee. Parties interested in HB 386 should contact John W. Abbott, Attorney at Law and Chairman, Code Revision Commission, 601 W. 5th, Suite 820, Anchorage, Alaska 99501 (907/276-3222), or Catherine Walsh, Secretary, Code Revision Committee, Juneau, Alaska 99811 (907/465-4878).

Our position on CSHB 524 (L&C), an act relating to small loans, is that there will be no fiscal effect on the Department of Commerce and Economic Development or the Division of Banking and Securities. The Department neither endorses nor objects to the bill.

Essentially, CSHB 524 (L&C) allows for interest adjustments on small loans, on an annual basis, if the Anchorage consumer price index exceeds 10% in any calendar year. This automatic rate adjustment should make it unnecessary to constantly initiate rate adjustments by legislative action.

On SB 606, an act relating to ownership of financial institutions by out-of-state bank holding companies, this Department and the Division of Banking and Securities, although not necessarily advocating interstate banking, do support the full legislative process in determining the needs of the state, its citizens, and a sound financial community. We opposed the special interest activity noted on this subject last session.

08-H2LH

SB 606 is acceptable inasmuch as it is not limited or restrictive to any size, condition, location, etc., of the bank holding company or subsidiary bank. We feel if interstate banking is going to be a benefit to the state it should go through the bank holding company structure. This will tend to preserve the dual banking system and also maintain some Alaska (community) management control and local interest of the subsidiary bank.

As to the regulatory scheme toward the proposed legislation, we see no problem as specifics in public protection are covered under the Alaska Banking Code and can be implemented by regulations. If, however, restricted activity or limiting provisions are amended into the bill, there may be serious problems in regulations and enforcement ability by the Department.

Sincerely,

Lois J. Cook

Lois J. Cook
Acting Deputy Commissioner

LJC/wfs 5/5

Enclosures

"A person may" near the beginning of the subsection.

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 06.20.230. Maximum interest permitted. (a) A licensee may lend any sum of money not exceeding $25,000 and may charge, contract for, and receive on the loan interest at a rate not exceeding three percent a month on that part of the unpaid principal balance of a loan not in excess of $500; two percent a month on the remainder of any unpaid principal balance exceeding $500 but not exceeding $1,000; and one percent a month on the remainder of any unpaid principal balance exceeding $1,000 but not exceeding $25,000. On loans the principal of which is $50 or less a licensee may charge, contract and receive interest at a rate not exceeding five percent a month.

(b) Notwithstanding the provisions of (a) of this section, a licensee who makes open-end loans under this chapter or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000 may elect to charge, contract for, and receive interest not to exceed the greater of

(1) one and one-half percent a month; or

(2) eight percentage points above the Federal Reserve discount rate on 90-day commercial paper charged to banks for advances by the 12th Federal Reserve District on the first day of the month before the calendar quarter during which the loan is made.

(c) Interest on loans under (b) of this section shall be computed according to the actuarial method on the entire unpaid principal balance as determined in AS 06.20.285(b). (§ 16(a) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 7 ch 71 SLA 1978; am § 2 ch 84 SLA 1979; am § 3 ch 63 SLA 1980)

Effect of amendments.

The 1979 amendment added subsection (b).

The 1980 amendment, effective June 5, 1980, in subsection (a), substituted "$25,000" for "$5,000" twice; in subsection (b), inserted "or who makes a loan under this chapter exceeding $5,000 but not exceeding $25,000" and "the greater of", restructured the subsection into the present introductory paragraph and paragraphs (1) and (2), added "or" following "a month" in paragraph (1), added the provisions of paragraph (2); designated the provisions beginning "Interest on loans" as subsection (c), added "Interest on loans under (b) of this section shall be", and inserted "entire" preceding "unpaid principal" in subsection (c).

Sec. 06.20.250. Computation and payment of interest. (a) Interest shall not be paid, deducted, or received in advance. Except for open-end loans made under AS 06.20.285, interest shall be computed and paid only on unpaid principal balances and shall not be compounded; however, if part or all of the consideration for a loan contract is the unpaid principal balance of a prior loan, the principal amount payable under the loan contract may include any unpaid charges on the prior loan which have accrued within 60 days before the

making of the loan contract. The maximum interest permitted on loans made under this chapter shall be computed on the basis of the number of days actually elapsed. For the purpose of these computations a month is any period of 30 consecutive days.

(c) Except for open-end loans under AS 06.20.285, a licensee may not enter into any contract for a loan that provides for a scheduled repayment of principal over more than the maximum terms set out below opposite the respective size of loans.

Principal amount of loan to	Maximum term
$1,000	24 and ½ months
Over $1,000 to $2,500	48 and ½ months
Over $2,500 to $5,000	60 and ½ months
Over $5,000 to $25,000	as agreed to by the parties

(am §§ 3, 4 ch 84 SLA 1979; am § 4 ch 63 SLA 1980)

Effect of amendments.

The 1979 amendment added "Except for open-end loans made under AS 06.20.285" at the beginning of the second sentence of subsection (a) and "Except for open-end loans under AS 06.20.285" at the beginning of subsection (c).

The 1980 amendment, effective June 5, 1980, in subsection (c), substituted "a" for "no" preceding "licensee" near the beginning of the subsection, inserted "not" following "licensee may" near the beginning of the subsection, added the provisions of the last line of both columns of the loan repayment terms beginning "Over $5,000" and ending "as agreed to by the parties."

As the rest of the section was not affected by the amendments, it is not set out.

Sec. 06.20.260. Charges prohibited. (a) No further or other charge or amount for any examination, service, brokerage commission, expense, fee, or bonus or other thing or otherwise shall be directly or indirectly charged, contracted for or received except

(1) lawful fees actually paid out by the licensee to a public officer for filing, recording, or releasing any instrument securing the loan, or for transferring certificate of title to a motor vehicle securing the lien or noting a lien on that certificate;

(2) premiums actually paid out for insurance on any one or combination of the following: pledged property of the borrower, credit life insurance on the life of one or more borrowers, or credit disability insurance to provide indemnity for payments becoming due on the indebtedness;

(3) taxable costs and expenses to which the licensee becomes entitled under general law in any court proceedings to collect a loan or to realize on the security after default;

(4) Repealed by § 16 ch 71 SLA 1978.

(5) reasonable fees paid by a licensee for appraisals, surveys, and title insurance or reports if the loan is secured by an interest in real estate.

(am § 5 ch 84 SLA 1979)

Sec. 06.20.310. Illegal interest rate. No loan of the amount or value of $25,000 or less for which a greater rate of interest, consideration or charge than is permitted by this chapter has been charged, contracted for or received, wherever made, may be enforced in the state, and every person participating in such a loan in the state is subject to this chapter. This section does not apply to loans legally made in any state or territory of the United States which has in effect a regulatory small loan law similar in principle to this chapter. (§ 20(c) ch 73 SLA 1955; am § 5 ch 94 SLA 1969; am § 13 ch 71 SLA 1978; am § 9 ch 63 SLA 1980)

Effect of amendment.
The 1980 amendment, effective June 5, 1980, substituted "$25,000" for "$5,000."

Sec. 06.20.320. Civil and criminal penalties.
(c) If a penalty for failure to comply with financing disclosure requirements under regulations adopted by the Board of Governors of the Federal Reserve System is imposed by the federal authorities, the department may not impose a civil penalty under this section for the same act or omission.
(am § 7 ch 84 SLA 1979)

Effect of amendment.
The 1979 amendment added subsection (c).

As the rest of the section was not affected by the amendment, it is not set out.

Sec. 06.20.900. Definitions. As used in this chapter, unless the context otherwise requires,

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

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

(3) "open-end loan" means a loan made by a licensee under this chapter under an agreement between the licensee and a borrower which provides that

(A) the borrower may obtain advances of money from the licensee from time to time or the licensee may advance money on behalf of the borrower from time to time as directed by the borrower;

(B) the amount of each advance and interest and charges will be added to the borrower's open-end loan account and payments and other credits are deducted from that account;

(C) interest will be computed on the unpaid principal balance or the average unpaid principal balance of the open-end loan account;

(D) the borrower may pay all or any part of the unpaid principal balance of his open-end loan account or, if the account is not in default, in monthly installments of fixed amounts as provided in the loan agreement; and

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CSHB 524 (L&C)

Title An Act Relating to Small Loans

Requested by Senate Labor and Commerce Committee Date November 9, 1981

II. FISCAL DETAIL

Agency Affected Department of Commerce & Economic Development

Program Category Affected Consumer Protection

BRU, Program, or Subprogram(s) Affected Financial Institutions

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

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0	0	0	0	0
200 TRAVEL		0	0	0	0	0
300 CONTRACTUAL		0	0	0	0	0
400 COMMODITIES		0	0	0	0	0
500 EQUIPMENT		0	0	0	0	0
600 LAND & STRUCTURES		0	0	0	0	0
700 GRANTS, CLAIMS, ETC.		0	0	0	0	0
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

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

POSITIONS

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

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

IV. DATE November 12, 1981 PREPARED BY Willis F. Kirkpatrick

AGENCY Department of Commerce & Economic Development

PHONE 465-2521

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/80

ALASKA LEGISLATURE COMMITTEE FILES 1981- 1982 8672
1809 through 1810: THESE NUMBERS WERE NOT USED

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8072

1811 SLC HB 694 - HB 835

1811

HB

694

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CSHB 694:

Places employees of the Municipal Bond Bank Authority, other than the director and legal counsel, in the partially exempt service. Amends language pertaining to the amount of revenue bonds it expects to issue, and places a limit of $50 million on the amount of revenue bonds the authority may issue in one year without Legislative approval.

Establishes a Municipal Bond Bank Authority revolving loan fund in the Department of Revenue. Loans may be made to municipalities for projects for which bonds have been authorized by law, but not yet sold. Would make loans available for expenditures authorized under state or federal grants, after the grant is authorized, but before the grant is received, and loans for expenditures authorized by a governing municipal body in anticipation of tax revenues expected to be received during the period of the loan. Loans shall be for a period of one year or less, and each municipality is entitled to borrow up to $1 million from the fund. The interest rate will be determined by the authority and must not be less than the market rate which the authority will have to pay at the time of the loan for notes issued for a similar purpose.

L&C CS added a new section allowing the Municipal Bond Bank Authority to issue bonds and notes up tp $200 million. Provides the act takes effect immediately.

THIRTY-SECOND LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution Number: CS HB 694 (L&C)

Title: An act relating to the Alaska Municipal Bond Bank Authority
Requested by: Rules/Governor Date: 3/17/82

II. FISCAL DETAIL
Agency Affected: Revenue
Program Category Affected:
BRU, Program, or Subprogram(s) Affected: Municipal Bond Bank Authority
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 COMMODITIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS,CLAIMS,ETC	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL	-	-	-	-	-	-

FUNDING (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER (Specify Source)						
Program Receipts from MBB	-	1.14	-	-	-	-

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)
The Alaska Municipal Bond Bank has $1.14 million in program receipts for FY 82. This amount would be used to fund the revolving fund set up in Section 4 of the bill. It is anticipated that a fund of $3 million would eventually be set up and at that time program receipts would again be remitted to the General Fund on an annual basis.

DATE:

PREPARED BY: Penna ~~McCrine~~ for Dave Rose
AGENCY: Revenue
PHONE: 465-2301

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

33-001 (Rev. 12/81)

JAY S. HAMMOND
GOVERNOR

HB694

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 26, 1982

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

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Alaska Municipal Bond Bank Authority.

The bill amends AS 44.85 by placing the authority's employees, other than the executive secretary and legal counsel, in the partially exempt service (secs. 1 and 2 of the bill), allowing the authority to issue up to $50,000,000 worth of revenue bonds during any fiscal year without specific legislative authorization (sec. 3 of the bill), and establishing a municipal bond bank revolving loan fund to make loans to municipalities in anticipation of the receipt of revenues from bond issues, state or federal grants, or taxes (sec. 4 of the bill).

The bill amends AS 44.85.100(b), which requires an estimate of the amount of bonds to be issued for the "following 12-month period." The amendment makes it clear that, the estimate required under AS 44.85.100(b) is for the fiscal year following the fiscal year in which the estimate is submitted and not for the 12-month period following the submission of the estimate (sec. 3 of the bill).

Section 4 of the bill adds AS 44.85.165, which establishes a municipal bond bank revolving loan fund. The authority may make a loan of up to $1,000,000 to a municipality from the fund for expenditures which are authorized in anticipation of the receipt of revenue described in AS 44.85.165(1)(A) -- (C).

Sincerely,

Jay S. Hammond
Governor

Legislative history reports. — For report on ch. 69, SLA 1970 (HB 564), see 1970 House Journal Supplement No. 2, p. 7 (2/10/70). For report on ch. 127, SLA 1974 (SCSHB 817 am S), see 1974 House Journal, p. 657. For report on ch. 157, SLA 1976 (SCS CSHB 887 am S), see 1976 House Journal, p. 1449.

The thrust of the exemptions in this chapter, the Public Employees Retirement System, former AS 39.35.680(5(c), and the statutory leave provisions for state employees, AS 39.20.310, is to provide for those public employees who are not susceptible to ordinary recruiting and examining procedures. Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

No inconsistency between ferry crew exemption of this section and inclusion of such personnel with Public Employment Relations Act, AS 23.40.070 et seq. — See Hafling v. Inlandboatmen's Union, Sup. Ct. Op. No. 1743 (File No. 3438), 585 P.2d 870 (1978).

Sec. 39.25.120. Partially exempt service. The following positions in the state service constitute the partially exempt service and are subject to this chapter and the rules adopted under it only as specifically provided in this chapter. Positions in the partially exempt service shall be included in the position classification plan established under this chapter, and these positions shall be compensated according to the pay plan. Persons holding positions in the partially exempt service are not required to take examinations, qualify or earn a place on a register, nor are they eligible for a hearing by the personnel board in case of dismissal, demotion, or suspension. Positions in the partially exempt service are specifically exempt from the rule established under AS 39.25.150(3) — (11), (14), (15), (18). They are also specifically exempt from AS 39.25.170 and 39.25.180 and as stated in AS 39.25.160(a):

(1) assistant commissioners of the principal departments of the executive branch;

(2) the directors, division of personnel, division of public health, division of medical assistance, and those other directors of the major divisions of the principal departments of the executive branch as are specifically designated by the governor;

(3) attorney members of the staff of the Department of Law;

(4) one private secretary for each head of a principal department in the executive branch;

(5) all employees of the Office of the Governor and the lieutenant governor, including the staff of the governor's mansion;

(6) Repealed by § 4 ch 78 SLA 1971.

(7) Repealed by § 9 ch 47 SLA 1974.

(8) the director and deputy director of the division of tourism in the Department of Commerce and Economic Development;

(9) regional directors of the Department of Transportation and Public Facilities;

(10) the executive director and deputy director of the Alaska Public Utilities Commission;

(11) the state forester, in the Department of Natural Resources;

(12) the executive director and staff of the Alaska Public Offices Commission;

(13) the attorney members, but not the non-attorney members, of the staff of the public defender agency in the Department of Administration;

(14) the executive director of the Alaska Historical Commission;

(15) the chief executive officer, but not other staff, of the Alaska State Council on the Arts;

(16) the administrator of the Alaska Police Standards Council;

(17) the executive director, but not other staff, of the Alaska Council on Science and Technology located in the Department of Environmental Conservation;

(18) the director, deputy director, staff legal counsel, and hearing officers of the Alaska Transportation Commission. (§ 6 ch 144 SLA 1960; am § 2 ch 48 SLA 1961; am § 2 ch 133 SLA 1961; am § 4 ch 5 SLA 1966; am § 3 ch 104 SLA 1969; am § 2 ch 109 SLA 1969; am § 4 ch 78 SLA 1971; am § 9 ch 47 SLA 1974; am § 4 ch 82 SLA 1975; am § 10 ch 207 SLA 1975; am § 2 ch 157 SLA 1976; am § 19 ch 263 SLA 1976; am Executive Order No. 39 § 6 (1977); am § 1 ch 103 SLA 1978; am § 2 ch 108 SLA 1978; am Executive Order No. 41 § 3 (1980); am Executive Order No. 42 §§ 3, 4 (1980); am Executive Order No. 43 § 4 (1980); am Executive Order No. 44 § 5 (1980); am Executive Order No. 45 § 3 (1980); am Executive Order No. 46 § 4 (1980); am § 18 ch 115 SLA 1980)

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

Effect of amendments. — The first 1976 amendment deleted "division of mental health" following "division of personnel" in paragraph (2).

The second 1976 amendment, retroactive to July 1, 1975, deleted "and the staff of the division of tourism" from the end of paragraph (8).

Executive Order No. 39 § 6 (1977), added paragraph (9).

The first 1978 amendment added paragraph (10).

The second 1978 amendment added paragraph (11).

Section 3, Executive Order No. 41 (1980), the first 1980 amendment, added paragraph (12).

Sections 3 and 4, Executive Order No. 42 (1980), the second 1980 amendment, deleted "and the attorney members of the staff of the public defender agency, but not including the nonattorney members of the staff of that agency" from the end of paragraph (5), and added paragraph (13).

Section 4, Executive Order No. 43 (1980), the third 1980 amendment, added paragraph (14).

Section 5, Executive Order No. 44 (1980), the fourth 1980 amendment, added paragraph (15).

Section 3, Executive Order No. 45 (1980), the fifth 1980 amendment, added paragraph (16).

Section 4, Executive Order No. 46 (1980), the sixth 1980 amendment, added paragraph (17).

The seventh 1980 amendment, added paragraph (18).

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51. For report on ch. 157, SLA 1976 (SCS CSHB 887 am S), see 1976 House Journal, p. 1449.

of a quorum to exercise all the powers and perform all the duties of the bond bank authority. (§ 1 ch 79 SLA 1975)

Sec. 44.85.050. Bonding of members. Before the issuance of bonds or notes under this chapter, each director shall execute a surety bond in the penal sum of $25,000 and the treasurer shall execute a surety bond in the penal sum of $50,000. Each surety bond shall be conditioned upon the faithful performance of the duties of the office of the director or treasurer, to be executed by a surety company authorized to transact business in the state as surety and filed in the office of the lieutenant governor. After issuance of bonds or notes by the bond bank authority each director shall maintain his surety bond in force. All costs of the surety bonds shall be borne by the bond bank authority. (§ 1 ch 79 SLA 1975)

Sec. 44.85.060. Compensation and expenses. The directors of the bond bank authority shall serve without compensation, but the bond bank authority shall reimburse its directors for actual expenses necessarily incurred in the discharge of their duties. Notwithstanding any other law, an officer or employee of the state need not forfeit his office or employment or any benefits by reason of his acceptance of appointment to the office of director of the bond bank authority. (§ 1 ch 79 SLA 1975; am § 1 ch 56 SLA 1976)

Effect of amendment. — The 1976 amendment substituted "need not forfeit his office or employment or" for "shall forfeit his office or employment and" in the second sentence.

Sec. 44.85.070. Staff. The bond bank authority shall employ an executive secretary who may with the approval of the bond bank authority select and employ additional staff as necessary. Employees and agents of the bond bank authority other than legal counsel and the executive secretary are in the classified service under AS 39.25. In addition to its staff of regular employees, the bond bank authority may contract for and engage the services of the bond counsel, consultants, experts, and financial advisors the bond bank authority considers necessary for the purpose of developing information, or conducting studies, investigations, hearings or other proceedings. (§ 1 ch 79 SLA 1975)

Sec. 44.85.080. Powers of bond bank authority. The bond bank authority may

(1) sue and be sued;

(2) adopt and alter an official seal;

(3) make and enforce bylaws and rules for the conduct of its business and for the use of its services and facilities;

(4) maintain an office at any place in the state;

(5) acquire, hold, use and dispose of its income, revenues, funds and money;

(b) The bond bank authority shall include in the report required by (a) of this section an estimate of the amount of revenue bonds of the bond bank authority to be issued during the following 12-month period. The bond bank authority may not issue revenue bonds other than refunding bonds during any 12-month period beginning after June 30, 1981, unless the legislature, by law, approves the estimate required by this subsection for that 12-month period. (§ 1 ch 79 SLA 1975; am § 40 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment added subsection (b).

Sec. 44.85.110. Annual budget. The bond bank authority shall prepare and submit an annual budget in accordance with the provisions of the Executive Budget Act (AS 37.07). (§ 1 ch 79 SLA 1975)

Sec. 44.85.120. Care and custody of bonds. The bond bank authority may enter into agreements or contracts with a bank, trust company, banking or financial institution inside or outside the state as may be necessary, desirable or convenient, in the opinion of the bond bank authority, for rendering services in connection with the care, custody or safekeeping of municipal bonds or other investments held or owned by the bond bank authority, for rendering services in connection with the payment or collection of amounts payable as to principal or interest, and for rendering services in connection with the delivery to the bond bank authority of municipal bonds or other investments purchased by it or sold by it, and to pay the cost of those services. The bond bank authority may also, in connection with any of the services to be rendered by a bank, trust company or banking or financial institution as to the custody and safekeeping of its municipal bonds or investments, require security in the form of collateral bonds, surety agreements or security agreements in such form and amount as, in the opinion of the bond bank authority, is necessary or desirable. (§ 1 ch 79 SLA 1975)

Sec. 44.85.130. Effect of obligations. (a) Bonds and notes issued under this chapter are not a debt or liability of the state and do not create or constitute an indebtedness, liability or obligation of the state, nor do they constitute a pledge of the faith and credit of the state. All bonds and notes issued under this chapter, unless funded or refunded by bonds or notes of the bond bank authority, are general obligations of the authority to which the full faith and credit of the authority are pledged to the payments of them, except to the extent provided by the resolution authorizing the issuance of them. Each bond and note must contain on its face a statement to the effect that the bond bank authority is obligated to pay the principal and interest on the instrument only from revenues or funds of the bond bank authority and

Sec. 37.10.040. Enforcement of liability. The liability of a certifying officer or employee is enforced in the same manner as provided by law with respect to enforcement of the liability of a disbursing and other accountable officer. (§ 12-3-4 ACLA 1949)

Article 2. Accounting.

Section
50. Accounting for state money and payment to Department of Revenue for deposit in proper fund
60. Department of Revenue to deposit money to state treasury

Sec. 37.10.050. Accounting for state money and payment to Department of Revenue for deposit in proper fund. (a) Each office, board, commission, or bureau authorized to collect or receive fees, licenses, taxes or other money belonging to the state shall account for and pay the fees, licenses, taxes or other money, less fees to which he is entitled by law to the Department of Revenue at least once each month.

(b) Money collected for the state shall be deposited by the collector in the nearest bank to the account of the Department of Revenue when the Department of Revenue directs this to be done.

(c) The Department of Revenue in June and December of each year shall publish in at least one newspaper of general circulation in each of the four judicial districts a detailed report in display advertising form of the amount of state money deposited in each named bank or other financial institution. A copy of the semiannual report on bank deposits shall also be sent to the Legislative Affairs Agency for distribution of copies to the members of the legislature. The terms of the deposit may be obtained upon a written request. (§ 12-2-1 ACLA 1949; am § 8 art III ch 82 SLA 1955; am § 5 ch 186 SLA 1957; am § 1 ch 115 SLA 1968)

Revisor's note. — Section 12-2-1 ACLA 1949 was repealed by § 48, ch. 133, SLA 1951. Section 1, ch. 24, SLA 1953 repealed ch. 133, SLA 1951 and § 2, ch. 24, SLA 1953 reenacted § 12-2-1 ACLA 1949 as it appeared in ACLA 1949.

The reference to § 8, art. III ch. 82, SLA 1955 in the source refers to the second of two sections which are both numbered § 8. The amendment by § 5, ch. 186, SLA 1957 corrects the error.

Cross reference. — As to deposit of state funds, see AS 37.10.075.

Quoted in Empire Printing Co. v. Roden, 17 Alas. 209, 247 F.2d 8 (9th Cir. 1957).

Am. Jur. and C.J.S. references. — 42 Am. Jur., Public Funds, §§ 5 to 41.

23 C.J.S. Depositories §§ 7 to 14; 81 C.J.S. States § 155.

Sec. 37.10.060. Department of Revenue to deposit money to state treasury. All fees and receipts received by the Department of Revenue from any source shall be deposited in the state treasury at least once each month, and credited by the department to the proper fund. (§ 12-2-2 ACLA 1949)

notes, are exempt from taxation except for transfer, inheritance and estate taxes. (§ 1 ch 79 SLA 1975)

Sec. 44.85.170. Loans to political subdivisions. (a) The bond bank authority, to carry out the purposes and policies of this chapter, may lend money to municipalities through the purchase by the bond bank authority of municipal bonds of municipalities. Notwithstanding a home rule charter provision requiring public sale by a municipality of its municipal bonds, a municipality may sell its municipal bonds to the bond bank authority at a negotiated, private sale. The bond bank authority, for this purpose, may issue its bonds and notes payable solely from the revenues or funds available to the bond bank authority for such payment and may otherwise assist municipalities as provided in this chapter.

(b) Notwithstanding any provision of law, to the extent that any department or agency of the state is the custodian of money payable to a municipality, at any time after written notice to the department or agency head from the bond bank authority that the municipality is in default on the payment of principal or interest on municipal general obligation bonds of the municipality then held or owned by the bond bank authority, the department or agency shall withhold the payment of that money from that municipality and pay over the money to the bond bank authority for the purpose of paying principal of and interest on bonds of the bond bank authority. (§ 1 ch 79 SLA 1975; am § 2 ch 56 SLA 1976; am § 1 ch 48 SLA 1978)

Cross reference. — As to the authority of municipal instrumentalities to issue obligations for specified purposes, see AS 29.59.010.

Effect of amendments. — The 1976 amendment added the present second sentence of subsection (a), and in subsection (b), substituted "Notwithstanding any provision of law, to the extent that any department or agency of the state" for "To the extent that the commissioner of revenue" at the beginning of the subsection, substituted "the department or agency head" for "him" and "department or agency" for "commissioner of revenue" near the middle of the subsection, and substituted all of the language beginning "and pay over the money" for "until the amount of the principal or interest then due and unpaid has been paid to the bond bank authority, or until the commissioner of revenue has been advised that arrangements, satisfactory to the bond bank authority, have been made for the payment of the principal and interest" at the end of the subsection.

The 1978 amendment inserted "general obligation" preceding "bonds" near the middle of subsection (b).

Sec. 44.85.180. Issuance of bonds and notes. (a) Subject to AS 44.85.100(b), the bond bank authority may issue its bonds or notes in principal amounts that it considers necessary to provide funds for any purposes under this chapter, including

(1) the purchase of municipal bonds;

(2) the making of loans through the purchase of municipal bonds;

(3) the payment, funding or refunding of the principal of, or interest or redemption premiums on, bonds or notes issued by it whether the

bonds or notes or interest to be funded or refunded have or have not become due;

(4) the establishment or increase of reserves to secure or to pay bonds or notes or interest on bonds or notes and all other costs or expenses of the bond bank authority incident to and necessary or convenient to carry out its corporate purposes and powers.

(b) Except as otherwise provided in this chapter or by the bond bank authority, every issue of bonds or notes shall be general obligations payable out of the revenues or funds of the bond bank authority, subject only to agreements with the holders of particular bonds or notes pledging a particular revenue or fund. Bonds or notes may be additionally secured by a pledge of a grant or contributions from the United States or the state or a political subdivision or a person, firm or corporation, or a pledge of income or revenues, funds or money of the bond bank authority from any source whatsoever.

(c) Notwithstanding the provisions of (a) and (b) of this section, the total amount of bond bank authority bonds and notes outstanding at any one time, except bonds or notes issued to fund or refund bonds or notes, may not exceed $150,000,000.

(d) In deciding to purchase municipal bonds of a municipality, the bond bank authority shall give preference to the municipalities referred to in § 5 of this chapter. In addition, the following, listed in order of preference, are preferred purposes of the municipal bonds that may be considered by the bond bank authority for purchase: schools, waste water treatment facilities, fire protection and public safety facilities, public health facilities and public transportation facilities. (§ 1 ch 79 SLA 1975; am § 41 ch 106 SLA 1980)

Effect of amendment. — The 1980 amendment substituted "Subject to AS 44.85.100(b), the" for "The" at the beginning of subsection (a).

Sec. 44.85.190. Form of issuance. Bonds or notes of the bond bank authority shall be authorized by resolution of the bond bank authority and may be issued in one or more series and shall bear the date, mature at the time, bear interest at the rate of interest each year or within a maximum rate, be in the denomination, be in the form, either coupon or registered, carry the conversion or registration privileges, have the rank or priority, be executed in the manner, be payable from the sources in the medium of payment at the place inside or outside the state, and be subject to the terms of redemption, with or without premium, as the resolution of the bond bank authority provides. (§ 1 ch 79 SLA 1975)

Sec. 44.85.200. Sale price. Bonds or notes of the bond bank authority may be sold at public or private sale at the price the bond bank authority determines. (§ 1 ch 79 SLA 1975)

firm, association, organization, business trust, or society, as well as a natural person;

(8) "personal property" includes money, goods, chattels, things in action, and evidences of debt;

(9) "property" includes real and personal property;

(10) "real property" is coextensive with land, tenements, and hereditaments;

(11) Repealed by § 2 ch 66 SLA 1965.

(12) "signature" or "subscription" includes mark when the person cannot write, with his name written near the mark by a witness who writes his own name near the person's name; but a signature or subscription by mark can be acknowledged or can serve as a signature or subscription to a sworn statement only when two witnesses so sign their own names thereto;

(13) "state" means the State of Alaska unless applied to the different parts of the United States and in the latter case it includes the District of Columbia and the territories;

(14) "writing" includes printing. (§ 4 ch 62 SLA 1962; am § 2 ch 66 SLA 1965; am § 10 ch 117 SLA 1968)

Cross references. — For additional definition of "peace officer," see AS 11.30.100. For further definition of "person," see AS 15.55.250. For additional definitions, see AS 15.60.010.

Effect of amendments. — The 1965 amendment repealed paragraph (11).

The 1968 amendment substituted "state troopers" for "state police" in paragraph (6).

Quoted in Matanuska-Susitna Borough v. King's Lake Camp, Sup. Ct. Op. No. 472 (File No. 857), 439 P.2d 441 (1968); Stroh v. State Housing Authority, 7 Alas. L.J. No. 9, p. 647 (Sept., 1969); Stroh v. Alaska State Housing Authority, Sup. Ct. Op. No. 496 (File No. 924), 459 P.2d 480 (1969).

Sec. 01.10.065. Certified mail. When the use of registered mail is authorized or required by the laws of the state, certified mail, with return receipt requested, may be used. (§ 1 ch 66 SLA 1965)

Article 3. Effect of Statutes.

Section	Section
70. Time statutes take effect	90. Retrospective statutes
80. Computation of time	100. Effect of repeals or amendments

Sec. 01.10.070. Time statutes take effect. (a) All laws passed by the legislature become effective 90 days after enactment. The legislature may by concurrence of two-thirds of the membership of each house, provide for another effective date.

(b) The actual effective date of a bill having no effective date clause is determined by starting with the day after signature by the governor or the day on which he gives written notice that he is allowing it to become law without his signature, and counting 90 calendar days, the law becoming effective at 12:01 a.m., Pacific Standard time, on the 90th day.

(c) A law having an immediate effective date clause becomes

law at 12:01 a.m., on the day after it is signed by the governor or on the day after he has given written notice that he is allowing the law to become effective without his approval.

(d) A law which specified a definite effective date becomes effective at 12:01 a.m., Pacific Standard time, on the date specified. (§ 5 ch 62 SLA 1962; am § 8 ch 126 SLA 1966)

Effect of amendment.—The 1966 amendment rewrote this section.

Sec. 01.10.080. Computation of time. The time in which an act provided by law is required to be done is computed by excluding the first day and including the last, unless the last day is a holiday, and then it is also excluded. (§ 6 ch 62 SLA 1962)

This section was taken from the laws of Oregon. Mahan v. Sparks, 10 Alaska 292 (1942); Lowe v. Hess, 10 Alaska 174 (1941).

It merely states the common-law rule. Lowe v. Hess, 10 Alaska 174 (1941).

This statutory computation is declaratory of the common-law rule in Alaska. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Alaska's computation-of-time statute merely expresses the common law. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

Common law.—At common law it was established if the last day on which an act was to be performed fell on a Sunday, then that Sunday was excluded and the time was extended to the following day. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No 603), 407 P.2d 587 (1965).

The common-law rule is that when the period of time within which an act is to be performed exceeds one week, an intervening Sunday is included in the computation. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Legislative intent.—The legislature, by virtue of its enactment of this section, manifested its intent to exclude Sundays in the computation of time only when Sunday falls on the last day of a period in question. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Exception in common law as to computation of person's age.—There exists a well-recognized exception in the common law as to the computation of a person's age. This exception, briefly stated, is that a year must be counted, not from the day of birth, but from the preceding day when limitation is figured. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

The computation-of-time statute is expressive of only the general common-law rule and does not presume to abrogate the well-established exception thereto governing the computation of a person's age. It follows that the statute has no application in calculating a person's age. Turnbull v. Bonkowski, 419 F.2d 104 (9th Cir. 1969).

The supreme court is enjoined by the legislature to observe the provisions of AS 01.10.020, in resolving any issue relating to this section and its applicability to the five-day recount provision of AS 15.20.430. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computing limitation under AS 15.20.430.—In computing the five-day period of limitation prescribed by AS 15.20.430, an intervening Sunday is to be included. Wade v. Dworkin, Sup. Ct. Op. No. 306 (File No. 603), 407 P.2d 587 (1965).

Computation of the limitations period provided by AS 09.10.070 subsequent to the removal of the disability of minority is to be made by excluding the first day and including the last. Turnbull v. Bonkowski, 274 F. Supp. 733 (D. Alas. 1967).

Filing appeal.—Under this section, the day on which the judgment is entered should be excluded in computing the time within which an application for an appeal must be filed. Mahan v. Sparks, 10 Alaska 292 (1942).

HB
697

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 697:

Allows the state to hire temporary employees if the hiring of permanent employees for a work assignment of 120 days or less would result in "additional costs or the hiring of inappropriate individuals". Adds a new section which grants an exception to the prohibition on the hiring of temporaries.

Directs the commissioner of a department which hires temporaries to adopt regulations to ensure that employees are appointed in the most efficient manner possible so that the needs of the department regarding work assignments of 120 days or less are met. The regulations shall require that each employee meets the minimum qualification established for a work assignment.

Nothing in this section authorizes a commissioner or a department to use a non permanent employee to perform a given work assignment for more than 120 days in a 12 month period, or to employ any individual as a non permanent employee for more than 120 calendar days in a 12 month period.

SUPPORT OF ABOLITION OF SEC 39.25.195 Revised

The Department of Fish and Game currently has 712 permanent seasonal positions that were created in response to Alaska Statute 39.25.195. These seasonal positions range in time from two weeks to ten months each year. The regulations required us to create seasonal positions because our activities are both planned and reoccuring each year. For positions that last more than four months in a year, the seasonal system has produced some positive benefits for Fish and Game. For these longer term positions, a higher percentage of the incumbents return in succeeding years providing us with trained, knowledgeable employees. However, these benefits are unfortunately overshadowed by the problems we encounter with the system on those positions that last less than 120 days. The difficulties occur in two major areas: cost and local hire.

First the cost.

Attachment No. 1 outlines the salary plus benefit costs for 712 seasonal positions. 56% or 399 of these 712 positions are employed for less than 120 days a year. These 399 positions represent a salary cost of 2.4 million dollars to which you must add $556,000 for benefits as permanent seasonals. These same 399 positions would need only $185,000 as non permanents--a difference of $471,000. Keep in mind these employees are on our payroll for two weeks to four months per year.

That is only part of the cost. To that you must add the cost of recruiting these people. We did a survey of those positions hired out of our Anchorage Regional office for just the Division of Commercial Fisheries. In 1979, prior to the passage of the non permanent hire law, we spent $3,900 on telegrams and long distance phone calls, during April, May and

June, to hire 175 temporary employees. In 1980, after the non permanent hire law, to hire these same 175 employees we spent $14,600 on telegrams and long distance phone calls--a difference of $10,000. In 1981 our $14,000 in long distance calls and telegrams only got us 40 employees. The total cost for telegrams and long distance phone calls for recruiting in 1981 was $28,000.

The third cost associated with these seasonal employees is another recruiting cost--manpower. Commercial Fisheries estimates it took about 50 man days in 1979 to recruit 175 seasonals. In 1980 it took 217 man days to recruit 175 seasonals. In 1981 the personnel doing the recruiting were more organized, more knowledgeable about the new regulations and more efficient and it still took in excess of one man day of effort to hire each seasonal employee. When we hit the peak recruiting months of April, May and June in Anchorage, everyone from a range 8 clerk typist to range 20 management biologists recruit seasonal personnel. At an average salary of $12 per hour plus benefits, 217 man days represents a cost of $25,000. Even at this we haven't begun to measure the cost of lost productivity in their regular jobs.

Another area of particular concern to the Department is the ability to hire local residents. In the past, if one of the Fisheries Divisions needed some basic biological information in a rural area, they sought someone in the area who understood the local fishery to gather the data. Now, when that need arises, the Divisions must go to a register and hire from the top five. In most cases they hire someone from an entirely different area. This is compounded by some rural residents who don't want to bother with the

bureaucracy so don't bother to get on registers or, during the one month in the year when the register is open, doesn't think he will want to work for us in six months so again doesn't get on the register.

Those are the major problems but, in addition, there are the little ones:

- Comm Fish tries to get this seasonal hiring organized early and on May 1 offers John Smith a Fish Tech II job for two months beginning on June 1. John says, "I'll be there." On May 27, Sport Fish offers John Smith a Fish Tech III job for three months beginning June 1 and John Smith accepts. Comm Fish then finds themselves with an expired register and no employee to begin work in 4 days. An emergency hire is only good for 30 days so, if you hire that way, you will have to replace the person mid stream. It will take a week to get a new register, another week to work it and, if you are successful, there is only a two week delay which probably means some data is lost forever.

- College students who want summer jobs have to be on the registers when we go through our big recruiting effort in April and May. Individuals have told us they have received in excess of 100 telegrams from Fish and Game. Each one must be responded to or their name will be removed from the register.

In summary, Fish and Game supports permanent seasonal positions for jobs that last more than 120 days per year. However, we believe the Department could operate more efficiently, less expensively, to greater satisfaction of all parties and to the benefit of State if AS 39.25.195 applied only to positions in excess of 120 days.

Department of Fish and Game
Seasonal Positions
FY 1982

		Pos	Mos	Salary $
Commercial Fisheries	Salmon	326	868.2	1,419.4
	Shellfish	40	142.8	280.7
	Herring	42	97.7	165.4
	Admin	3	9.5	16.4
	Groundfish	14	76.0	159.1
Sport Fish	Investigations	119	313.5	593.7
	Management	5	17.0	33.7
	Restoration	4	8.0	14.8
F.R.E.D.	Operations	127	579.0	1,037.4
	Admin	4	27.5	37.9
Game	Investigations & Research	28	147.0	270.8
		712	2,286.2	4,029.3

56% of these positions are for less than 120 days.
$4,029.3 (total salaries) x .56 = $2,256.4

Benefits as Non Permanents
$2,256.4 x .0819 (FY 82 benefit rate) = $184.8

Benefits as Permanent Seasonals
$2,256.4 x .1575 (FY 82 benefit rate) = 355.4
$1,128.2 x .0966 (50% covered by police retirement = 109.0
1,280.3 mm x $150 (insurance premium x months) = 192.0
Total benefits $656.4

Difference $471.6

Alaska Public
Employees Association APEA
State Headquarters: 340 N. Franklin, Juneau, AK 99801 (907) 586-2334

April 9, 1982

William R. Hudson
Commissioner
Department of Administration
Pouch C
Juneau, Alaska 99811

Dear Commissioner Hudson:

A growing body of evidence, increased public concern and legislative inquiry have focused attention on two existing problems relative to State employment ir remote or rural areas.

First, residents in remote areas frequently face almost insurmountable obstacles in securing local State employment. This is due primarily to an inability to gain the experience and training necessary to meet the stated minimum qualifications and the complicated process involved for obtaining a place on State registers. This is made more cumbersome and lengthy due to their remote status.

Second, several Departments (notably Fish & Game) have expressed concern about their capacity to fill positions in remote areas expeditiously and economically when required to import labor from larger metropolitan areas. This is particularly true when faced with the need to fill a large number of short-term but essential positions.

Equally critical concerns are budgetary shortfalls. There is increasingly obvious failure on the part of the State to meet Affirmative Action goals and objectives. This includes stabilizing and improving the economic base in remote areas and addressing the issue of employment in remote areas.

Fairbanks Field Office
825-D College Road
Fairbanks, AK 99701
Telephone: (907) 456-5412

Anchorage Field Office
833 Gambell Street, Suite A
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Juneau Field Office
227 4th Street
Juneau, AK 99801
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APEA is prepared to address these issues and repeatedly indicated its willingness to do so. APEA has reviewed pertinent statutes, Personnel Rules, and negotiated agreements. This review suggests that a viable, legal mechanism exists which can be utilized to meet the needs of both the citizens and the State.

The mechanism is the Vocational Class V-XVII series, currently a part of the State Classification Plan.

The Vocational Class series was created in 1971 in accordance with the provisions of AS 39.25.155 for the purpose stated in the specifications (copy attached):

> These classes are intended for use primarily in remote areas of high unemployment where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills.

As far as we have been able to determine, positions are not now being allocated to the Vocational Class series, nor have these classes ever been used extensively (if at all) for their stated purpose. The State's failure to utilize an apparently available mechanism is doubtless due in part to the absence of adequate procedures for implementation. In recognition of this fact and in the interest of facilitating a rapid, effective response to the problems outlined above, APEA proposes the following minor modifications:

1. Revision of the existing Vocational Class V-XVII specifications (6905-6917)

   Delete second sentence of paragraph three under Distinguishing Characteristics which reads: "Vocational Classes are compensated at one pay range below the counterpart in regular non-professional classes."

   Substitute:
   An employee meeting the Minimum Qualifications of the target class (such as Fish & Game Technicians I-III, Fish Culturists I-II, or Forest Technicians I-III) for which he/she is recruited will be placed in the Vocational Class assigned a salary range equivalent to that of the target class.

An employee capable of doing the work but lacking specific training and experience necessary for appointment to the target class will be placed in the Vocational Class one pay range below the target class.

As soon as any employee in a Vocational Class gains sufficient training and experience to meet the minimum qualifications of the target class, he or she will be placed in the target class, and receive the pay rate assigned to that class.

2. Establishment of a procedure to implement revisions.

A procedure must be developed to determine which classifications and specific positions may be subject to the provisions outlined. Additionally, success of the proposal clearly requires a method for insuring that employees who enter State service in a Vocational Class are allocated to the appropriate target class in a timely manner. This could be accomplished by departmental certification to the Division of Personnel (as with coupled classes) or within the individuals departments under the delegation of authority regarding classification action.

3. Development of simplified application form.

APEA suggests that a simplified one page application form be developed solely for use in Vocational Class recruitment. Similar to the form once used for temporary employment, this form would request only basis information including demographic data and pertinent work history. To facilitate recruitment in the local areas, the application forms could be made available through State and local agencies capable of providing assistance to the applicant. Such agencies include the Department of Labor Job Services offices and the Department of Health and Social Services Public Assistance offices, as well as local Native Corporations and school systems.

4. Development of a definition of "remote areas" for use in implementing the Vocational Class specifications.

The Vocational Class series is intended for use in remote areas. Clearly, this precludes allocation

to the series of those positions located in readily accessible population centers such as Anchorage, Fairbanks, Juneau, Ketchikan, Sitka, Haines, et cetera. APEA proposes that for purposes of recruitment within the Vocational Class series, "remote areas" be defined as those areas which have a relatively small population and are relatively unaccessible. This definition is intended to promote hire of local residents, particularly in those areas outside large metropolitan areas which experience demands for a large number of employees for short-term employment (i.e., Nome, Bethel, Kotzebue, Kodiak). In the past, these needs have been met through the importation of labor to the exclusion of local residents who are willing and capable of doing the necessary work.

In summary, APEA believes the above proposals will facilitate entry into State service for residents in remote areas; serve the needs of user departments in meeting their program needs; reduce the costs of recruitment for positions in remote areas; assist the State in meeting its Affirmative Action objectives, and contribute significantly to the economic base of the affected areas.

These proposals will require only minor modification to existing procedures and are in accordance with pertinent laws, personnel rules, and collective bargaining agreements. APEA urges their adoption.

Sincerely,

Cherie Shelley

Cherie Shelley
Executive Director

CS/rb

Attachment

cc: Senator Frank Ferguson
Representative John Fuller
Sandra Withers
Kenneth Kareen

STATE OF ALASKA

Class Series Specification

VOCATIONAL CLASS V	6905 -05	VOCATIONAL CLASS XI	6911 - 11
VOCATIONAL CLASS VI	6906-06	VOCATIONAL CLASS XII	6912 - 12
VOCATIONAL CLASS VII	6907 07	VOCATIONAL CLASS XIII	6913 - 13
VOCATIONAL CLASS VIII	6908 08	VOCATIONAL CLASS XIV	6914 - 14
VOCATIONAL CLASS IX	6909 -09	VOCATIONAL CLASS XV	6915 - 15
VOCATIONAL CLASS X	6910 -10	VOCATIONAL CLASS XVI	6916 - 16
		VOCATIONAL CLASS XVII	6917 - 17

Definition:

An incumbent filling a position in one of these classes performs the duties of the non-professional class and position to which its counterpart vocational class is assigned.

Distinguishing Characteristics:

This class series provides a means by which Alaska residents not meeting minimum qualifications of regular non-professional classes may enter State service via one of these classes, and maintain employment in that class until he or she meets minimum qualifications for a regular State class of position.

These classes are intended for use primarily in remote areas of high unemployment where the opportunity to gain required hiring qualifications does not exist, but where there is a local need for employees with certain vocational skills, in accordance with provisions of AS 39.25.155.

Although written examinations are not required, aptitude or occupational tests may be given if a position requires a specific ability. Vocational classes are compensated at one pay range below the counterpart in regular non-professional classes.

Examples of Duties:

Performs the duties of the non-professional class to which this class is assigned to the extent permitted by knowledge, skills and abilities.

Participates in any required training designed to impart knowledge, skills and abilities required for competent performance.

Knowledges, Skills and Abilities:

Ability to: Learn and perform specific job skills; follow instructions.

Willingness to participate in such testing, training and/or licensing required for safe and effective job performance, and for compliance with applicable laws.

Minimum Qualifications:

Physical and mental capacity to perform the work assigned.

Orig: 5/1/71

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

Amendment proposed by Senator Fergusson

Amend Alaska Statute AS39.25.150 (6) to enable the adoption of personnel rules to provide for local preference. The specific language would be: "the procedure for certifying eligibles including preference for local residents under appropriate circumstances.....

Alaska State Legislature

JUNEAU, ALASKA

BLUE RIBBON COMMISSION ON THE
STATE PERSONNEL ACT
Pouch AG/Mail Stop 0123
Juneau, Alaska 99811
(907) 465-4442

Senator Bill Ray
Chairman

February 6, 1981

COMMISSIONER'S OFFICE
RECEIVED
FEB 9 1981
DEPARTMENT OF FISH AND GAME

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

Dear Governor Hammond:

At the most recent meeting of the Blue Ribbon Commission on the State Personnel Act, a situation was presented which caused members some concern. It regards the classification for seasonal positions in rural parts of Alaska in the Department of Fish and Game. In the past, these positions were classified as temporary positions and filled primarily by local residents. With the implementation of the nonpermanent law, the department reclassified these jobs as permanent seasonal and filled them through hiring from the list of eligibles.

Unfortunately, this meant that many experienced local residents were not hired for the past season, either because they had not applied in time to be considered for placement on the register or because, when their applications were evaluated, they failed to place within the top five interested eligible candidates. The persons hired for monitoring the marine mammal harvest and for collecting biological specimens were more likely to come from Anchorage and Fairbanks than from the local area. This was harmful to the local residents and also cost the state more because of transportation costs and because the out-of-towners had to become acquainted with the area before they were in a position to begin substantive work on the job. Attached is a copy of information supplied to the commission about this situation.

The commission is concerned and urges you to encourage the hiring of local residents for these positions.

Sincerely,

Bill Ray

Senator Bill Ray
Chairman

BR:lmk
Enclosure
cc: Commissioner Ronald O. Skoog
Department of Fish and Game
Bruce Cummings, Director
Division of Personnel

Article 7. Nonpermanent Employees.

Section		Section
195. Appointment of nonpermanent employees		198. Civil liability
197. Termination of nonpermanent employees		200. Definitions

Editor's note. — Section 1, ch. 67, SLA 1979 provides: "LEGISLATIVE FINDINGS AND INTENT. The legislature finds and declares that certain inconsistencies and abuses in the hiring of nonpermanent employees have jeopardized the integrity and efficiency of the merit system as well as the morale of employees. The legislature intends to curb the widespread administrative practice of using nonpermanent state employment to evade departmental accountability and mask poor planning. The legislature further intends that nonpermanent employees be used only to the extent that it is impractical to meet the need with permanent employees and that the burden of proof shall fall upon the department or agency which proposes nonpermanent hire."

Sec. 39.25.195. Appointment of nonpermanent employees. (a) An individual may not be appointed as a nonpermanent employee in the state service without prior written approval of the director except as an emergency employee.

(b) Every appointment to state service, except an emergency appointment, shall be made from an applicable eligible list or dispatching register unless in appropriate circumstances the director has waived this requirement.

(c) No appointment of a nonpermanent employee may be made unless the request for authorization is approved by the director, adequate money is available for the anticipated duration of the appointment, and the director determines that

(1) the hiring department or agency has certified that the legislature has appropriated money for the work in question knowing that it is to be performed by a nonpermanent employee;

(2) the hiring department or agency has certified that there is an immediate need to fill an authorized, permanent position and it is impractical either to establish the position or to make certification within a reasonable time;

(3) the hiring department or agency has certified that an immediate need exists and the director determines that the hiring department or agency could not reasonably have been expected to anticipate and meet through the creation of a permanent position; or

(4) the hiring department or agency has certified that a program or project exists and the director determines that the need for employees can most appropriately be met through the use of program or project employees.

(d) The director may not authorize the appointment of a nonpermanent employee if he determines that

(1) the need for the nonpermanent employee can practicably be met through establishing and filling an authorized permanent position;

(2) the need for the nonpermanent employee would be more appropriately met through an emergency appointment; or

(3) the need for the nonpermanent employee is not immediate and could reasonably have been anticipated and met by the appointing authority through the creation and filling of a permanent position.

(e) A nonpermanent employee may not be placed on the state payroll unless the director has first approved the personnel action for the employee's appointment.

(f) Nothing in this section prevents the director from adopting regulations to provide for timely substitution for permanent employees on medical or personal leave or other situations in which the appointment of an emergency or permanent employee would be inappropriate or when delay in making a temporary replacement would cause serious disruption.

(g) A department or agency may not use nonpermanent employees to perform a given work assignment for more than 120 calendar days in a 12-month period. A department or agency may not employ any individual as a nonpermanent employee for more than 120 calendar days in a 12-month period. In appropriate circumstances the director may authorize an extension of the limit imposed by this subsection if he finds that there is an immediate need for the extension. The limit imposed by this subsection does not apply to program or project employees or to substitutes appointed under (f) of this section.

(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section. (§ 4 ch 67 SLA 1979)

Sec. 39.25.197. Termination of nonpermanent employees. When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice. (§ 4 ch 67 SLA 1979)

Sec. 39.25.198. Civil liability. A person who makes a false certificate under AS 39.25.195 is personally liable in a civil action to an individual terminated under AS 39.25.197 for any resultant damages and for punitive damages of an amount not to exceed three times the gross monthly salary at which the nonpermanent employee was appointed. (§ 4 ch 67 SLA 1979)

Sec. 39.25.200. Definitions. In AS 39.25.195 — 39.25.200,

(1) "certified" means signed by the head of a department or agency or by a responsible person designated by him;

(2) "director" means the director of the division of personnel and labor relations;

(3) "emergency employee" means an employee appointed for a period not to exceed 30 calendar days, whose appointment was made under conditions requiring immediate action to carry on work that is required in the public interest;

(4) "nonpermanent employee" means a person who is employed in state service in a position which is not in the exempt or partially exempt service and who is not a permanent or an emergency employee;

(5) "permanent employee" means an employee who has been appointed to an authorized, permanent full-time or part-time or permanent seasonal position in the classified service and who is in the process of completing or has successfully completed the required probationary service in that position;

(6) "program or project employee" means a nonpermanent employee, including a student intern, who is employed in state service with prior written understanding that employment in that position will continue for at most the duration of a specified program or project which is not a regular and continuing function of a department or agency and which has an established probable date of termination. (§ 4 ch 67 SLA 1979)

Article 8. General Provisions.

Section
210. Penalties
220. Short title

Sec. 39.25.210. Penalties. (a) A person who wilfully violates a provision of this chapter or of the personnel rules adopted under this chapter is guilty of a misdemeanor.

(b) A state employee who is convicted of a misdemeanor under this chapter or the personnel rules adopted under this chapter immediately forfeits his office or position. (§ 20 ch 144 SLA 1960)

Sec. 39.25.220. Short title. This chapter may be cited as the State Personnel Act. (§ 2 ch 144 SLA 1960)

(e) The rules adopted under this chapter relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act. The rules may be published in the Alaska Administrative Register and Code for informational purposes. (§ 12 ch 144 SLA 1960; am § 5 ch 5 SLA 1966)

Legislative history report. — For report on ch. 5, SLA 1966, see 1966 House Journal, pp. 50 and 51.

A right clearly created by statute cannot be taken away by regulation. Mueller v. Alaska State Bd. of Personnel, Sup. Ct. Op. No. 396 (File No. 738), 425 P.2d 145 (1967).

Stated in Kelly v. Zamarello, Sup. Ct. Op. No. 705 (File Nos. 1255, 1256), 486 P.2d 906 (1971).

Cited in State in Bogenrife, Sup. Ct. Op. No. 918 (File No. 1665), 513 P.2d 13 (1973).

Sec. 39.25.150. Scope of rules. The personnel rules shall provide for

(1) the preparation, maintenance, and revision by the director of personnel, subject to approval by the commissioner of administration and the personnel board, of a position classification plan for all positions in the classified and partially exempt services; in the position classification plan all positions shall be grouped together into classes on the basis of duties and responsibilities; the position classification plan shall include for each class of position an appropriate title, a description of the duties and responsibilities, training and experience qualifications, and other necessary position specifications;

(2) the preparation, maintenance, revision, and administration by the director of personnel of a pay plan for all positions in the classified and partially exempt services; the pay plan shall be prepared after consultation with the appointing authorities or their designee, and with representatives of interested employee groups; the pay plan shall be based upon the position classification plan, shall provide for fair and reasonable compensation for services rendered, and shall be based on the principle of like pay for like work; commissioners' salaries are not the maximum limit for the pay plan and in exceptional circumstances higher salaries may be specified; the pay plan may provide for uniform starting pay, increments, and area and time differentials; the pay plan prepared under this section may be amended, approved or disapproved by the legislature in regular or special session; after the pay plan is put into effect, no salary or wage payment may be made to a state employee covered by the pay plan unless the payment is in accordance with this chapter and the rules adopted under this chapter;

(3) the use of sound employee selection methods, including open competitive examinations to test the fitness of applicants for positions in the state service;

(4) promotions from within the state service when there are qualified candidates in the state service; vacancies shall be filled by promotion whenever practicable and in the best interest of the state

service, and promotion shall be by competitive examination whenever possible; in considering promotions, applicants' qualifications, performance record, seniority, and conduct shall be evaluated;

(5) the establishment and maintenance of eligible lists for appointment and promotion; the names of eligible candidates shall be placed on eligible lists in order of their relative performance in the examinations;

(6) the procedure for certifying eligibles;

(7) a period of probation not to exceed one year before an appointment to a position becomes permanent, except that a permanent employee receiving a promotional appointment retains permanent status in the service and the job class from which appointed for the duration of the probationary period, and may be demoted to his former class without right of appeal, AS 39.25.170 notwithstanding, but if dismissed from the service he has appeal rights under AS 39.25.170;

(8) emergency appointments to positions in the state service;

(9) nonpermanent appointments to positions in the state service in accordance with AS 39.25.195 — 39.25.200;

(10) provisional appointment without competitive examination when appropriate eligible lists are not available;

(11) transfers from one department to another and from another merit system jurisdiction to the state service;

(12) transfers from one area of the state to another;

(13) the payment of transportation costs when an employee transfers from one area to another at the request of the employer;

(14) the reinstatement of a person who resigns in good standing;

(15) layoffs for reason of lack of funds or work, abolition of positions, or material changes in duties or organization; both performance and seniority records shall be considered in the development of layoff orders;

(16) the development, maintenance, and utilization of employee performance records;

(17) the imposition of disciplinary suspension without pay for not longer than 30 days in any 12-month period;

(18) the procedures for review of disputed personnel actions and for resolving employee and interagency grievances;

(19) hours of work for all employees in the state service;

(20) methods and procedures covering overtime work and pay;

(21) the delegation, where feasible, of personnel responsibilities and duties to the principal departments of the executive branch.

(22) other rules and administrative regulations, not inconsistent with this chapter, which are necessary for its enforcement;

(23) the granting of employment preference rights to a veteran at each time he applies for employment, not within the area of promotion, when he possesses the necessary qualifications in the job classification

for which he applies under this chapter; the term "veteran" means a person with 90 days or more active service in the armed forces of the United States who has been honorably discharged after having served during any period between April 6, 1917, and December 1, 1919, between September 16, 1940, and December 31, 1947, or between June 27, 1950, and November 7, 1975; the term "disabled veteran" means a veteran who is rated by the United States Veterans' Administration as having at least a 10 per cent service-connected disability; in the examination to determine the qualification of applicants for entrance into the classified service under merit system examination, five additional points shall be added to the passing grade of a veteran and 10 additional points shall be added to the passing grade of a disabled veteran; if a position in the classified service is eliminated, employees shall be released in accordance with rules which give due effect to all factors; if all job qualifications are equal, the veteran shall be given preference over the nonveteran and the veteran shall be kept on the job;

(24) the employment of persons in permanent positions on a part-time basis of 15 hours or more a week, including the employment of two persons to fill one permanent full-time position; these employees shall be designated as permanent part-time employees;

(25) the granting of employment preference to severely handicapped persons; this includes the right to provisional appointment without competitive examination for periods up to four months and the granting of eligibility to a severely handicapped person provisionally appointed under the rules who demonstrates his ability to perform the job for permanent appointment without competitive examination; provisional employment under this paragraph may not exceed four months during a 12-month period; "severely handicapped" as used in this paragraph means persons certified by the director of the division of vocational rehabilitation to be severely handicapped. (§ 13 ch 144 SLA 1960; am § 1 ch 130 SLA 1961; am § 1 ch 147 SLA 1962; am § 1 ch 117 SLA 1966; am § 1 ch 33 SLA 1967; am § 3 ch 226 SLA 1970; am § 1 ch 39 SLA 1971; am § 3 ch 42 SLA 1971; am § 1 ch 21 SLA 1973; am § 1 ch 27 SLA 1976; am § 1 ch 4 SLA 1978; am § 2 ch 67 SLA 1979; am § 38 ch 94 SLA 1980)

Revisor's note. — The pay plan prepared under (2) of this section is set out in AS 39.27.011.

Effect of amendments. — The 1976 amendment added paragraph (24).

The 1978 amendment added paragraph (25).

The 1979 amendment substituted "nonpermanent appointments" for "temporary appointments" and "in accordance with AS 39.25.195 — 39.25.200" for "which are determined to be of a seasonal or temporary nature" in paragraph (9).

The 1980 amendment substituted "November 7, 1975" for "a date to be determined by the legislature which shall be on or about six months after the termination of hostilities involving forces of the United States in Viet Nam" near the middle of paragraph (23), and substituted a semicolon for a period at the end of paragraph (23).

Article 7. Nonpermanent Employees.

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(h) The director shall present a report on nonpermanent and emergency hire practices in state government to the legislature within the first 10 days of each regular legislative session. A hiring department or agency shall certify to the director within 15 working days following the appointment its reasons for appointing an emergency employee. The report shall include information on the number of nonpermanent employees authorized under this section and the number of emergency employees hired in each department, a description of the procedures used in authorizing the hiring of nonpermanent employees, and any recommendations for legislation required to implement the intent of this section. (§ 4 ch 67 SLA 1979)

Sec. 39.25.197. Termination of nonpermanent employees. When the director determines that an employee has been appointed as a result of a false certification under AS 39.25.195, he shall immediately notify the head of the affected department or agency in writing and the department or agency shall terminate the employee from state service within one working day after receipt of notice. (§ 4 ch 67 SLA 1979)

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST
Bill/Resolution No. HB 697
Title An Act Relating to appointment of nonpermanent employees
Requested by Representative Bylsma Date 1/27/82

II. FISCAL DETAIL
Agency Affected Fish and Game
Program Category Affected Natural Resources Management
BRU, Program, Or Subprogram(s) Affected see #III
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	(471.6)	(477.0)				
200 TRAVEL						
300 CONTRACTUAL	(24.5)	(26.7)				
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS,CLAIMS,ETC.						
TOTAL	(496.1)	(503.7)				

FUNDING (Thousands of Dollars)

GENERAL FUND	378.0	383.9				
FEDERAL FUNDS	78.5	79.5				
OTHER (Specify Source)	39.6	40.3				
Fish & Game Fund						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

	Line Item 100	Line Item 300
Commercial Fisheries	(239.1)	(16.0)
F.R.E.D.	(125.9)	(5.0)
Sport Fish	(75.0)	(2.0)
Game	(31.6)	(1.5)

IV. DATE 2/5/82 PREPARED BY Beverly Reaume
AGENCY Fish and Game
PHONE 465-4120

Original: Legislative Finance
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Corrected 2/16/82

HB

726

Bill No. Committee Substitute for House Bill 726 (L & C) Date April 7, 1982

Title "An Act providing an exemption from the Alaska Employment Security Act for certain employees of certain corporations."

Contact: A. G. Zillig
465-2712
Judy Knight
465-2700

Committee substitute for House Bill 726 exempts certain employees of Alaskan corporations from the Alaska Employment Security Act (unemployment insurance). For this exemption, the employee must be an executive officer of the corporation who directly or indirectly owns 25 percent or more of the voting securities of the corporation, and further requires the agreement of the employee.

Although the department cannot ascertain how many corporations and employees may elect exemption under this provision, we feel it will be minimal. The provisions of this bill would not have a measurable effect on the administration of the unemployment insurance program nor employer rates for purposes of the Unemployment Insurance Trust Fund.

The Department of Labor has no objection to this exemption.

POSITION PAPER/Department of Labor

Alaska State Legislature

Senate

Official Business

Labor & Commerce Committee

Pouch V
State Capitol
Juneau, Alaska 99811

CS HB 726:

Exempts certain employees of Alaskan corporations from the Alaska Employment Security Act. Criteria for exemption:

1) Employee must be an executive officer of the corporation
2) Employee must own 25% or more of the voting securities of the corporation
3) Employee must agree

Limited Entry Permit Broker

Services for Commercial Fishermen

THE ALASKA EXCHANGE

P.O. BOX 2593 • JUNEAU, ALASKA 99803

Phone: (907) 789-2779

April 20, 1982

Senator Mulcahy, Chairman
Senate Labor and Commerce Committee
Pouch V
Juneau, AK 99811

Re: CSHB 726

Dear Senator Mulcahy:

In regard to the above-referenced bill, I am submitting the following:

I began my business, The Alaska Exchange, in January of 1979. In 1980, I became incorporated, mainly for liability purposes.

In incorporating, I became the major stockholder and the principal officer with an ownership of seventy percent of the corporation. Each of my five children became owners of six percent each of the corporation.

With incorporation came a set of rules and regulations with which to adhere.

Upon becoming incorporated, the corporation paid to me, when possible, a salary, and withheld and paid Federal income taxes, FICA and an unemployment contribution to the State of Alaska on my wages, as well as on any other employee's wages of the corporation.

Although I don't particularly appreciate paying the Federal income taxes and FICA taxes, I resent even more having to pay the State unemployment contribution tax. I really feel it is an unjust and unfair tax in my particular situation, for the following reasons:

1. I am the only employee of The Alaska Exchange, Inc., with the exception that, on rare occasions, the corporation hires and pays one of my children to work for the company.

2. Being the sole employee of the corporation, I am in between "a rock and a hard spot," so to speak, regarding having to pay State unemployment taxes on my wages. To put it more adequately, I'm in a "darned-if-you-do-and-darned-if-you-don't" type of situation.

For instance: In 1980, when I became incorporated, the corporation made a fairly good amount of money, and contributed, as per regulations, to the State unemployment taxes on wages. In 1981, the corporation did very poorly, and paid to me only two pay checks--one in January, and one in October. In 1982, the corporation is doing better financially than it did in 1981, but not nearly as well as it did in 1980.

The problem is, that during the lean months, when the corporation was not able to pay me a salary, I could not apply for unemployment wages to which I and the corporation had contributed. Even though I was working, but not paid, I was still considered an employee. If I had filed for unemployment wages, I would have had to accept a position of hire if it was offered, and would have been unable to collect any unemployment wages.

My complaint is that I am a sole employee of my own corporation in which I hold the majority of the stock, and I must contribute to the State unemployment system out of any wages paid to myself, but I can never, as long as I work for my own corporation, even if unsalaried, collect unemployment wages. I am, basically, paying hard-earned dollars into something that will never benefit me.

I feel that I am being taxed unfairly by the State unemployment contribution system. I think there must be others in a situation similar to mine that are also being unfairly taxed by the present law.

I would be happy to present additional testimony if it is needed.

Very truly yours,

THE ALASKA EXCHANGE, INC.

By Mary Margaret Brady
Mary Margaret Brady

ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

Pouch Y, State Capitol
Juneau, Alaska 99811
(907) 465-3991

January 22, 1982

MEMORANDUM

TO: Representative Ramona Barnes

FROM: David Teal
Research Staff

RE: Unemployment Insurance
Research Request Number 82-6

Dave Stancliffe requested this agency to examine the possibility of exempting shareholder/employees of a corporation from State unemployment insurance taxes. Provisions which currently accomplish this intent in several states are briefly described below.

California — Sole stockholders of corporations are exempt from State unemployment insurance taxes.

Colorado — Corporate officers with a majority or controlling interest in the corporation are exempt from State unemployment insurance taxes.

Iowa — Shareholder/employees are exempt from State unemployment insurance taxes only if the employer is not subject to the Federal Unemployment Tax Act (FUTA). Attachments to this memorandum define employee for the purpose of FUTA coverage.

Minnesota — Shareholder/employees of family agricultural corporations are exempt from State unemployment insurance taxes.

Delaware — Officers of corporations performing civil or social functions are exempt from State unemployment insurance taxes if the officers work on a part-time basis and are paid no more than $75 per week.

Washington — Corporate officers may elect exemption from State unemployment insurance taxes if the corporation is not a non-profit or government corporation.

Primary differences among State laws concern the requirements for exemption and whether the exemption is mandatory or optional. Corporate officer status and/or controlling, majority, or sole interest in the corporation are minimum qualifications in most states. The degree of corporate control required for exemption was not specified for Iowa.

In all cases, the exemption is accompanied by loss of FUTA tax credits on services performed by those exempted from State taxes. That is, if the exemption were in effect, the federal unemployment insurance tax rate would increase from a rate of .7 percent to a rate of 3.4 percent on the first $6,000 of earnings. Assuming annual earnings exceed Alaska's taxable wage base of $14,600, exemption would provide a net gain to the shareholder/employee of $118 to $650 per year, depending on the State tax rate assigned. The table below describes the effects of exemption on employers with minimum and maximum tax rates assigned by the Alaska Department of Labor.

Effect of Exemption from State Unemployment Insurance Taxes
Alaska 1982

	minimum tax rate (1.22%)		maximum tax rate (4.86%)	
	current law	with exemption	current law	with exemption
FUTA tax	$ 42	$204	$ 42	$204
employer share	178	0	710	0
employee share	102	0	102	0
TOTAL	$322	$204	$854	$204
net change	$118		$650	

As you are aware, unemployment insurance is an extremely complex subject. If the terminology or law require further explanation, I will be happy to offer my assistance.

Attachments

for the first time under 26 U.S.C. 3304(a) an unemployment compensation law submitted to him by the Virgin Islands." See revisor's note above.

NOTES TO DECISIONS

Place of business. — Premises leased by a lumber mill operator for the purpose of hiring workers to harvest the timber thereon to be delivered to the mill for processing were considered a place of business for the purpose of unemployment tax liability. Clayton v. State, Sup. Ct. Op. No. 1890 (File No. 4116), 598 P.2d 84 (1979).

Discretion of department of labor under subsection (a)(10). — It is evident from the statutory requirement of a showing "to the satisfaction of the department" under subsection (a)(10) that the Department of Labor is vested with broad discretion in deciding whether an "employment" relationship exists. Clayton v. State, Sup. Ct. Op. No. 1890 (File No. 4116), 598 P.2d 84 (1979).

Proof required under subsection (a)(10). — Under subsection (a)(10) of this section, a business proprietor must prove the factors listed in (A), (B) and (C) to win an exemption from the tax. Clayton v. State, Sup. Ct. Op. No. 1890 (File No. 4116), 598 P.2d 84 (1979).

Where an employer could not demonstrate that workers hired for a particular job were customarily entrepreneurs engaged in an independently established business, but that the unavailability of work created unemployment for them, he failed to carry the burden of proof to establish the requirements of subsection (a)(10)(C) of this section. Clayton v. State, Sup. Ct. Op. No. 1890 (File No. 4116), 598 P.2d 84 (1979).

Sec. 23.20.526. Exclusions from definition of "employment." (a) In AS 23.20.005 — 23.20.535, unless the context otherwise requires, "employment" does not include

(1) domestic service in a private home, except as provided in AS 23.20.525(a)(15);

(2) newsboys' services in selling or distributing newspapers on the street or from house to house;

(3) service not in the course of the employing unit's trade or business performed in a calendar quarter by an individual, unless the cash remuneration paid for the service is $50 or more and the service is performed by an individual who is regularly employed by the employing unit to perform the service; an individual is here considered to be regularly employed to perform service not in the course of an employing unit's trade or business during a calendar quarter only if he performs the service for some portion of the day on each of some 24 days during the quarter or during the preceding calendar quarter;

(4) service performed by an individual in the employ of his son, daughter, or spouse, and service performed by a child under the age of 18 in the employ of his father or mother;

(5) service with respect to which unemployment insurance is payable under an unemployment insurance program established by an Act of Congress;

(6) service performed in the employ of a foreign government (including service as a consular or other officer or employee or a nondiplomatic representative);

(7) service performed in the employ of an instrumentality wholly owned by a foreign government if

(A) the service is of a character similar to that performed in foreign countries by employees of the United States government or its instrumentalities; and

(B) the department finds that the United States Secretary of State has certified to the United States Secretary of the Treasury that the foreign government, with respect to whose instrumentality exemption is claimed, grants an equivalent exemption with respect to similar service performed in the foreign country by employees of the United States government and its instrumentalities;

(8) service performed by an insurance agent, insurance solicitor, a real estate broker, a real estate salesman or a securities salesman to the extent he is compensated by commission, unless the service is required to be covered under the Federal Unemployment Tax Act as amended;

(9) notwithstanding AS 23.20.525(a)(11), service performed by an officer or member of the crew of an American vessel on or in connection with the vessel, if the operating office, from which the operations of the vessel operating on navigable waters inside or inside and outside the United States are ordinarily and regularly supervised, managed, directed and controlled, is outside this state;

(10) service performed on or in connection with a vessel not an American vessel by an individual if he performed service on and in connection with the vessel when outside the United States;

(11) service performed in the employ of the United States government or an instrumentality of the United States exempt under the Constitution of the United States from the contributions imposed by AS 23.20.005 — 23.20.535, except that to the extent that the Congress of the United States permits states to require an instrumentality of the United States to make payments into an unemployment fund under a state employment security law, all of the provisions of AS 23.20.005 — 23.20.535 apply to the instrumentalities, and to service performed for the instrumentalities in the same manner, to the same extent, and on the same terms as to all other employers, employing units, individuals, and service; however, if this state is not certified for any year by the Secretary of Labor under § 3304(c) of the Federal Unemployment Tax Act, the payments required of the instrumentalities with respect to the year shall be refunded by the department from the fund in the same manner and within the same period as is provided in AS 23.20.225 with respect to contributions erroneously collected;

(12) service performed in the employ of another state, or political subdivision of another state, or an instrumentality of another state or political subdivision which is wholly owned by another state or its political subdivision, or a service performed in the employ of an instrumentality of another state or its political subdivisions to the extent that the instrumentality is, with respect to the service, exempt under the Constitution of the United States from the tax imposed by § 3301 of the Federal Unemployment Tax Act;

(13) service performed in the employ of an international organization;

(14) service covered by an election approved by the agency charged with the administration of any other state or federal employment security law, in accordance with an arrangement under AS 23.20.090(a) during the effective period of the election;

(15) service performed by an individual in agricultural labor, except as provided in AS 23.20.525(a)(16); the term "agricultural labor" means remunerated service

(A) on a farm, in the employ of any person in connection with cultivating the soil, or in connection with raising or harvesting any agricultural or horticultural commodity, including the raising, shearing, feeding, caring for, training, and management of livestock, bees, poultry, and fur-bearing animals and wildlife;

(B) in the employ of the owner or tenant or other operator of a farm, in connection with the operation, management, conservation, improvement, or maintenance of the farm and its tools and equipment, or in salvaging timber or clearing land of brush and other debris left by a hurricane, if the major part of the service is performed on a farm;

(C) in connection with the production or harvesting of any commodity defined as an agricultural commodity in sec. 15(g) of the Agricultural Marketing Act, as amended (46 Stat. 1550, sec. 3; 12 U.S.C. 1141j), or in connection with the operation or maintenance of ditches, canals, reservoirs, or waterways, not owned or operated for profit, used exclusively for supplying and storing water for farming purposes;

(D) in the employ of the operator of a farm in handling, planting, drying, packing, packaging, processing, freezing, grading, storing or delivering to storage or to market or to a carrier for transportation to market, in its unmanufactured state, any agricultural or horticultural commodity; but only if the operator produced more than one-half of the commodity with respect to which the service is performed except as stated in (b) of this section;

(E) in the employ of a group of operators of farms (or a cooperative organization of which the operators are members) in the performance of service described in (D) of this paragraph, but only if the operators produced more than one-half of the commodity with respect to which the service is performed;

(F) on a farm operated for profit if the service is not in the course of the employer's trade or business.

(16) Repealed by § 25 ch 122 SLA 1977.

(17) service performed after December 31, 1971, by nurses, technicians, and other professional employees of hospitals no part of the net earnings of which inures to the benefit of a private shareholder or individual, unless the service is required to be covered under the Federal Unemployment Tax Act;

(18) Repealed by § 25 ch 122 SLA 1977.

(19) Repealed by § 80 ch 9 SLA 1980.

(20) service performed by an individual on a boat engaged in catching fish or other forms of aquatic animal life under an arrangement with the owner or operator of that boat under which

(A) that individual does not receive any cash remuneration except as provided in (B) of this paragraph;

(B) that individual receives a share of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life or a share of the proceeds from the sale of that catch; and

(C) the amount of that individual's share depends on the amount of the boat's (or the boats' in the case of a fishing operation involving more than one boat) catch of fish or other forms of aquatic animal life; but only if the operating crew of that boat (or each boat from which the individual receives a share in the case of a fishing operation involving more than one boat) is normally made up of fewer than 10 individuals.

(d) For the purposes of AS 23.20.525(a)(4), (5), (6) and (14), the term "employment" does not apply to service performed

(1) by a duly ordained, commissioned, or licensed minister of a church in the exercise of his ministry or by a member of a religious order in the exercise of duties required by the order;

(2) in a facility conducted for the purpose of carrying out a program of rehabilitation for individuals whose earning capacity is impaired by age or physical or mental deficiency or injury or providing remunerative work for individuals who, because of their impaired physical or mental capacity, cannot be readily absorbed in the competitive labor market by an individual receiving the rehabilitation or remunerative work;

(3) as part of an unemployment work-relief or work-training program assisted or financed in whole or in part by any federal agency or any agency of a state or political subdivision of the state, by an individual receiving work relief or work training;

(4) for a state hospital by an inmate of a prison or correctional institution;

(5) in the employ of a school, college, or university, if the service is performed by a student who is enrolled and is regularly attending classes at the school, college or university;

(6) by an individual under the age of 22 who is enrolled at a nonprofit or public educational institution which normally maintains a regular faculty and curriculum and normally has a regularly organized body of students in attendance at the place where its educational activities are carried on as a student in a full-time program, taken for credit at the institution, which combines academic instruction with work experience, if the service is an integral part of the program, and the institution has so certified to the employer, except that this para-

graph does not apply to service performed in a program established for or on behalf of an employer or group of employers;

(7) in the employ of a hospital, if the service is performed by a patient of the hospital, as defined in AS 23.20.520;

(8) in the employ of the state or a political subdivision of the state if the service is performed by an individual in the exercise of duties:

(A) as a "public official" as defined in AS 39.50.200(1) or any other elected official;

(B) as a member of the Alaska Army National Guard or Alaska Air National Guard or Alaska Naval Militia; or

(C) as an employee serving on only a temporary basis in case of fire, storm, snow, earthquake, flood, or similar emergency.

(9) in the employ of

(A) a church or a convention or association of churches; or

(B) an organization which is operated primarily for religious purposes and which is operated, supervised, controlled, or principally supported by a church or a convention or association of churches.

(am § 1 ch 55 SLA 1976; am §§ 19 — 23, 25 ch 122 SLA 1977; am § 80 ch 9; am § 3 ch 145 SLA 1980)

Effect of amendments. — The 1977 amendment added "except as provided in AS 23.20.525(a)(15)" to the end of paragraph (1) of subsection (a); in paragraph (15) of subsection (a), inserted "except as provided in AS 23.20.525(a)(16)" in the introductory language and deleted "or is domestic service in a private home of the employer" at the end of subparagraph (F); substituted "AS 23.20.525(a)(4), (5), (6) and (14)" for "§ 525(a)(4), (5) and (6)" in the introductory language of subsection (d); added paragraph (8) to subsection (d); added paragraph (20) to subsection (a); repealed paragraphs (16) and (18) of subsection (a), which read "except as provided in § 525(a)(4) of this chapter, service performed in the employ of the state or a political subdivision of the state unless coverage is elected under § 325 or § 326 of this chapter" and "service performed by employers of state-assisted agricultural fairs," respectively.

The first 1980 amendment repealed paragraph (19) of subsection (a).

The second 1980 amendment added paragraph (9) of subsection (d).

As the rest of the section was not affected by the amendments, it is not set out.

Editor's notes. — Section 35 of ch. 122 makes § 23 of the act effective June 15, 1977, in accordance with AS 01.10.070(c) and retroactive to April 1, 1977, except that § 23 shall become inoperative and void "if the United States Secretary of Labor, within 30 days after the effective date of this Act, finds that the provisions of this Act do not meet the requirements of section 1207(e) of the Tax Reform Act of 1976 (P.L. 94-455) and section 3306(c) of the Federal Unemployment Tax Act (26 U.S.C. 3306(c)). The amendment made by § 23, ch. 122, SLA 1977, is effective because the finding described in § 35, ch. 122 SLA 1977, was not made by the Secretary of Labor within the 30-day period.

Section 27, ch. 122, SLA 1977, provides: "(a) Notwithstanding the provisions of AS 23.20.350, benefits may be paid to an individual after December 31, 1977 on wages earned by that individual in a category of employment which was not covered under AS 23.20 [AS 23.20.005 -- 23.20.535] at any time during calendar year 1975 and which was service which is covered under AS 23.20 [AS 23.20.005 — 23.20.535], effective January 1, 1978, as the result of enactment of sec. 19 of this Act.

"(b) An employing unit which elects to make payments in place of contributions as provided in AS 23.20.278, as enacted by sec. 3 [4] of this Act, is not liable to make those payments with respect to benefits paid to an individual as a result of the operation of (a) of this section to the extent that the unemployment compensation fund is reimbursed for those benefits under sec. 121 of P. L. 94-566."

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 726 (L & C)

Title "An Act providing for an exemption from the Alaska Employment Security . . . "

Requested by Senate Labor & Commerce Date 4/5/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Employment Security

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

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

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

No fiscal impact.

IV. DATE 4/5/82 PREPARED BY Nico Bus, Finance Officer

AGENCY Labor

PHONE 465-2720

Original: Legislative Finance

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

HB

§35

Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

Labor & Commerce Committee

CSHB 835: Establishes the Alaska Safety Advisory Council in the Department of Labor consisting of 13 members appointed by the Governor. The council is to work in co-operation with official and unofficial organizations and State or local departments that are interested in the promotion of safety so that possible resources can be marshalled and used to reduce the menace of accidental death and injury.

The Council is to make recommendations to the various state and federal departments tha are concerned with safety programs and accident prevention, and to make recommendations to the Governor and the Legislature on the achievement of a coordinated State policy and program for the safety and health of State residents, and hold an annual governor's safety conference to bring together citizens interested in safety and health matters.

The Finance CS adds language to the section pertaining to DNR, and states that the commissioner shall adopt regulations to establish and operate mine rescue teams to assure the availability of mine rescue capability for purposes of emergency rescue and recovery as required by the Federal Mine and Heal-h and Safety Act of 1977.

Bill No. House Bill No. 835 (Finance) am

Title "An Act relating to Health and Safety."

Date April 20, 1982

Contact: Judy Knight
465-2700

At the present time, a number of state, federal, and local government agencies have responsibilities for providing safety and health protection to Alaskans in the work place, on the highways, in the home, and in recreational pursuits. Establishment of an Alaska Safety Advisory Council as proposed in House Bill 835 would provide a needed and effective vehicle for formal coordination of the efforts of the various government agencies which administer safety and health programs.

The bill provides for the council to be comprised of a cross section of Alaska's citizens. This is an excellent approach inasmuch as it will provide the council with the diversification needed when recommendations are formulated for addressing safety and health issues which are of concern to all Alaskans. Despite vigorous attempts by government agencies to involve Alaska's public in the development and delivery of safety and health programs, it is often difficult to obtain input from all segments of the population. The council, as proposed in this bill, is a positive step towards filling this void.

In the Department of Labor, our Workers' Compensation, Occupational Safety and Health, and Mechanical Inspection programs would all be favorably impacted by this bill.

The proposed annual safety conference will also provide an excellent forum for a meaningful exchange of information among Alaska's citizens; and state, federal, and local government agencies who are concerned with or have responsibilities for safety and health in the state.

This bill should do much to assist the department in meeting its goal of protecting workers from work-related safety and health hazards. The department supports this bill.

EP:mjs
1101:28

POSITION PAPER/Department of Labor

Sec. 39.20.160. Regulations. The fixing and payment under AS 39.20.110 — 39.20.170 of travel and per diem allowances and of advances and recovery and reimbursement of travel expenses shall be in accordance with regulations adopted by the commissioner of administration. The regulations shall be uniform for all officials and employees, and all agencies and departments. The regulations shall also govern the use of public transportation facilities by officials and employees. The regulations relate to the internal management of state agencies and their adoption is not subject to the Administrative Procedure Act (AS 44.62). (§ 9 ch 60 SLA 1957; am § 2 ch 13 SLA 1963)

Sec. 39.20.170. Construction of AS 39.20.110 — 39.20.170. AS 39.20.110 — 39.20.170 may not be construed to modify or repeal a law providing for the travel expenses of the governor, or members of the legislature, or members of boards or commissions of the state government. (§ 10 ch 60 SLA 1957)

Sec. 39.20.180. Transportation and per diem expenses for members of boards, commissions, etc. Except as otherwise provided by law, from and after March 27, 1962, the provisions in this section relating to per diem and transportation govern exclusively and supersede all other provisions of law with respect to a member of a state board, commission, committee, judicial council, or other similar body of persons of the state organized or established under the authority of law, but excluding any other state employee other than a legislator, who is otherwise entitled by law to receive from the state payments for expenses of transportation, and for reimbursement or for per diem in lieu of reimbursement for other expenses incident to his duties as such member:

(1) For transportation, the member is entitled either to the use of state transportation requests, or to be reimbursed for expenses of transportation to the same extent, in the same manner, and under the same conditions as provided for state officials and employees by the provisions of AS 39.20.110 — 39.20.170.

(2) For reimbursement for other expenses, the member is entitled to a per diem allowance prescribed by the commissioner of administration under the regulatory authority set out in AS 39.20.160 for each day or portion of a day spent in actual meeting or on authorized official business incident to his duties as a member. (§ 1 ch 130 SLA 1953; am § 1 ch 34 SLA 1960; am § 1 ch 37 SLA 1962; am § 5 ch 136 SLA 1967; am § 12 ch 47 SLA 1974)

Cross reference. — As to coverage of state board and commission members under the Worker's Compensation Act, see AS 23.30.242.

Quoted in Employers Liab. Assurance Corp. v. Groothuis, 8 Alas. L.J. No. 12, p. 334 (Nov., 1970).

Cited in Laborers & Hod Carriers Local 341 v. Groothuis, Sup. Ct. Op. No. 773 (File Nos. 1435, 1459), 494 P.2d 808 (1972).

impracticable to place a monument in its true position, a witness monument shall be erected and marked to indicate the true position of the corner or angle. (§ 47-3-31 ACLA 1949; am § 1 ch 16 SLA 1965)

Effect of amendments. — The 1965 amendment substituted "at the northeast corner of the claim" for "on the surface at or adjacent to the point of discovery" in paragraph (1), rewrote paragraph (1) (D), and deleted "on the vein at the center of each end line and" formerly appearing between "erecting" and "at each corner" near the beginning of paragraph (2).

Sec. 27.10.080. Water rights where claim includes both banks of a stream.

Repealed by § 2 ch 50 SLA 1966.

Editor's notes. — The repealed section derived from § 47-3-35 ACLA 1949.

Chapter 20. Mine Operation.

Section
10. Regulations
15, 20. [Repealed]
21. Department may inspect mining operations
25, 30. [Repealed]
31. Correcting unsafe conditions
35, 40. [Repealed]
41. Reports to be confidential
45, 50. [Repealed]
51. Penalties
55, 60. [Repealed]
61. Definition of mining operation
65 — 480. [Repealed]

Sec. 27.20.010. Regulations. (a) The commissioner of natural resources may adopt the rules, regulations, and orders which he considers necessary to carry out the purposes of AS 27.20.005 — 27.20.061, and his rules and regulations shall have the force and effect of law. Rules, regulations, and orders authorized by AS 27.20.005 — 27.20.061 shall be consistent with its purposes, and may include but are not limited to rules, regulations, and orders pertaining to and supplementing the subject matter contained in AS 27.20.005 — 27.20.061. The commissioner of natural resources, in adopting coal mining safety regulations, shall, as nearly as is practicable, conform to the federal regulations applicable to bituminous coal and lignite mine safety.

(b) All rules, regulations and orders authorized by AS 27.20.005 — 27.20.061 shall be adopted in accordance with the Administrative Procedure Act (AS 44.62.010 — 44.62.650). (§ 2 ch 70 SLA 1960; am § 1 ch 75 SLA 1963)

Effect of amendments. — The 1963 amendment added the last sentence in subsection (a).

Sec. 27.10.240. Definitions. In § 230 of this chapter

(1) the term "geological surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of geology as they relate to the search for and discovery of mineral deposits;

(2) the term "geochemical surveys" means surveys on the ground for mineral deposits by the proper application of the principles and techniques of the science of chemistry as they relate to the search for and discovery of mineral deposits;

(3) the term "geophysical surveys" means surveys on the ground for mineral deposits through the employment of generally recognized equipment and methods for measuring physical differences between rock types or discontinuities in geological formations;

(4) the term "qualified expert" means an individual qualified by education or experience to conduct geological, geochemical, or geophysical surveys. (§ 47-3-62 ACLA 1949; added by § 1 ch 67 SLA 1960)

Chapter 15. Mining Rights on State-Owned Lands.

Revisor's Note.

Rights to minerals on state-owned lands may be acquired under AS 38.05.185—38.05.280. For information on mining rights on federal public domain in Alaska, see the appropriate federal law and ch. 10 of this title.

Section

10. Grubstake contracts to be in writing and recorded

Sec. 27.15.010. Grubstake contracts to be in writing and recorded. All contracts, commonly known as "grubstaking," except as between the parties making them, are void, unless in writing, subscribed by the parties and filed for record with the recorder of the district in which locations thereunder are made. The contract must contain the names of the parties and the duration of the contract. (§ 47-3-10 ACLA 1949)

Cross reference.—See AS 27.10.020 and note thereto.

Am. Jur. reference.—36 Am. Jur., Mines and Minerals, §§ 171, 172.

Chapter 20. Mine Operation.

Article

1. Administration by Department (§§ 27.20.005—27.20.010)
2. Coal Mines (§§ 27.20.015—27.20.335)
3. Other Mines (§§ 27.20.340—27.20.480)

Article 1. Administration by Department.

Section

5. Purposes

Section

10. Rules and regulations

Sec. 27.20.005. Purposes. This chapter is intended to provide uniform safety standards for all mining operations conducted within

the state; to afford maximum freedom of operation to mining operators while assuring proper working conditions for their employees in regard to mining operations; to insure the protection of the public safety and public interest; and to provide for the conservation of natural resources in the public interest in relating to mining operations. (§ 1 ch 70 SLA 1960)

Am. Jur. and C.J.S. references.—
36 Am. Jur., Mines and Minerals, §§ 146 to 156.
58 C.J.S. Mines and Minerals § 229.

Sec. 27.20.010. Rules and regulations. (a) The commissioner of natural resources may adopt the rules, regulations and orders which he considers necessary to carry out the purposes of this chapter, and his rules and regulations shall have the force and effect of law. Rules, regulations and orders authorized by this chapter shall be consistent with its purposes and may include, but are not limited to, rules, regulations and orders pertaining to and supplementing the subject matter contained in this chapter.

(b) All rules, regulations and orders authorized by this chapter shall be adopted in accordance with the Administrative Procedure Act (AS 44.62). (§ 2 ch 70 SLA 1960)

Article 2. Coal Mines.

Section
15. Application
20. Department may make exceptions
25. Department may inspect mines
30. Notice to remedy defects
35. Mine operators to register and report statistics
40. Record and report of injuries
45. Report and subsequent proceedings in case of serious or fatal accidents
50. Miners to report dangerous conditions
55. Act endangering persons or property is a misdemeanor
60. Miners may be searched
65. Copy of law to be posted
70. First-aid equipment and training
75. Artificial breathing apparatus required
80. Two exits required
85. Safeguards on slopes and inclines
90. No combustible structures at mine openings
95. Safety requirements for machinery and appliances
100. Additional requirements for hoisting machinery
Section
105. Speed and occupancy requirements for cages, skips and buckets
110. Lamps in nongaseous mines
115. Lamps in gaseous mines
120. Department may require safety lamps
125. Use of internal-combustion engines
130. Use of electric locomotives
135. Clearance on hauling roads
140. Haulage roads to be kept clear and low roof offsets whitened
145. Landings to be whitewashed and lighted
150. Track safety requirements
155. Safety in room and pillar work
160. Timbers to be furnished and roof and sides secured
165. Storage and handling of explosives
170. Magazine safety rules
175. Thawing explosives
180. Handling of explosives in the mine
185. Blasting regulations
190. Gaseous mine defined
195. Shot firing in gaseous mines
200. Blasting in nongaseous mines
205. Additional blasting precautions

Sec. 27.20.055. Act endangering persons or property is a misdemeanor.

Repealed by § 3 ch 75 SLA 1963.

Editor's notes. — The repealed section derived from § 47-3-146(b) ACLA 1949.

Sec. 27.20.060. Miners may be searched.

Repealed by § 3 ch 75 SLA 1963.

Editor's notes. — The repealed section derived from § 47-3-146(c) ACLA 1949.

Sec. 27.20.061. Definition of mining operation. In AS 27.20.005 — 27.20.061

(1) "mining operation" includes all parts of a mine or mineral exploration project in the state and any mining or treatment plant or equipment connected with it underground or on the surface, which contributes or may contribute to the mining or treatment of ore or other metalliferous or nonmetalliferous mineral product; the term also includes a site of tunneling, shaft-sinking, quarrying or excavation of rock for other purposes, including but not limited to the construction of water or highway tunnels or drains or of underground sites for the housing of industrial plants or other facilities;

(2) "department" means the Department of Natural Resources. (§ 2 ch 75 SLA 1963)

Secs. 27.20.065 — 27.20.335. Posting of law; health and safety requirements; penalties for violations; employment of certified foremen and firebosses required; penalty for violation; certificates of competency; disposition of money received; scope.

Repealed by § 3 ch 75 SLA 1963.

Editor's notes. — The repealed sections derived from §§ 47-3-146(d) — 47-3-192 ACLA 1949; §§ 3-8, ch. 21, SLA 1953; § 4, ch. 70, SLA 1960.

Secs. 27.20.340 — 27.20.480. Application of chapter; jurisdiction of commissioner; inspections; notice of dangerous conditions; accident reports and investigations; health and safety requirements; first-aid requirements.

Repealed by § 3 ch 75 SLA 1963.

Editor's notes. The repealed sections derived from §§ 47-3-201 — 47-3-218, 47-3-220 — 47-3-228 ACLA 1949; § 1, ch. 7, SLA 1953; §§ 5-7, ch. 70, SLA 1960.

THE LEGISLATURE OF THE STATE OF ALASKA

TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 835 Page 1 of 4

Title "An Act Creating the Alaska Safety Advisory Council."

Requested by Representative Halford Date 1/25/82

II. FISCAL DETAIL

Agency Affected Labor

Program Category Affected Worker Protection

BRU, Program, or Subprogram(s) Affected Commissioner's Office

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

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	14.2	15.3	16.5	17.8	19.2
300 CONTRACTUAL	0	16.4	17.7	19.1	20.6	22.2
400 COMMODITIES	0	.4	.4	.5	.5	.6
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	31.0	33.4	36.1	38.9	42.0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	19.7	20.3	21.1	23.9	25.1
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	11.3	13.1	15.0	15.0	16.9
Program Receipts (Conference Fees)						

POSITIONS

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

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

This fiscal note is based on the following assumptions:

1. Contractual Costs: Administrative Costs 3.0 (note 2)
   Conference Costs 13.4 (note 5)

2. The Department of Labor will provide clerical/administrative support through its word processing center and its clerical staff.

   Cost 300: $1,500 Reimbursable service agreement with Department of Labor, Word Processing Center
   Code 300: $1,500 Telephone/mailing costs
   Code 400: $ 400 Office Supplies

   Total Administrative Costs $3,400

IV. DATE February 4, 1982 PREPARED BY Nico Bus

AGENCY Department of Labor

PHONE (907) 465-2720

Original: Legislative Finance

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

33-001 (Rev. 12/81)

3. There should not be much need for the Council to request legal advice as it will not be involved, as the bill is presently drafted, in any adjudication.

4. Travel: It is anticipated that the Council will meet three times during the year. One of these meetings will be in conjunction with the annual safety conference. It is assumed that at least five of the ten members representing industry and labor will be from Anchorage and, therefore, for purpose of this fiscal note, we are assuming that five members will require transportation.

Three meetings x $350.00/trip x five members = $5,250.00

As far as the three members representing government agencies, we are assuming that two will be stationed in Anchorage, and, therefore, only one of these members will require transportation.

Three meetings x $350.00/trip x one member = $1,050.00

Industry and labor members will receive the current per diem rate. This per diem is paid all members regardless of whether travel is required to attend the meeting.

Per diem $80.00/day x three days x three meetings x ten members = $7,200.00

Government employees are paid per diem when on travel status.

$80.00/day x three days x three meetings x one member = $720.00

Travel:	Transportation	$ 6,300
	Per Diem	7,920
	Total	$ 14,220

5. Cost of annual Governor's Safety Conference.

The cost of holding an annual Governor's Safety Conference can vary depending on how many topics will be included, the quality of conference speakers, the length of the conference, and the facilities provided for the conference.

In order to come up with a realistic estimate, the following assumptions are made:

A. The conference will be held in one of the major hotels in Anchorage.

B. It will be two days in length.

C. Only the keynote speaker will be paid - all other speakers and trainers will volunteer their services.

D. A banquet and two luncheons will be included in the registration fee.

E. A reasonable registration fee will be assessed in order to encourage maximum participation.

Hotel facilities (main room and 3 training rooms)	2,400
Banquet	3,000
Luncheons (two)	2,000
Cost of keynote speaker	1,000
Printing of agenda & other conference materials	3,000
Miscellaneous costs such as coffee service, etc.	2,000
Total Cost for Conference	$13,400
Registration Fee $75.00	
Anticipated participation (150 x $75.00)	(11,250)
Cost to Council	2,150

6. We are assuming an inflation rate of eight percent in estimating costs after FY '83. In FY '84 we are assuming 175 conference participants, in FY '85 and FY '86, 200 participants and in FY '87, 225 participants.

7. Assumes an effective date of July 1, 1982.

ALASKA SAFETY ADVISORY COUNCIL

History:

In 1977 Commissioner Edmund Orbeck asked a group of industry leaders to organize a Governor's Safety Conference. Mr. Vern Smith of 3M Company and Mr. Richard Pittenger of the Alaska Associated General Contractors were instrumental in organizing a committee of industry and labor leaders to work with the departments of Labor and Transportation and Public Facilities to hold the first conference in 1977. Conferences were also held in 1978 and 1979.

Legislation to form an Alaska Safety Advisory Council was first introduced in 1978.

OSHA - Savings and Federal Relations:

The formation of an Alaska State Advisory Council will not replace the need for a state occupational safety and health program and, therefore, no direct money savings will occur. However, such a council will do much in assisting the Department of Labor in assuring more and better public participation in the development of regulations, policies, and procedures of its occupational safety and health program. It will also assist in helping the department to make employers and employees more cognizant of the importance for safety and health on the job. This will help in improving the voluntary consultative and training services that the Department provides.

This council will not change the state-federal relationship of the occupational safety and health program. This relationship is set out in Section 23 of the Federal Occupational Safety and Health Administration (OSHA) when the latter agency recommends changes that affect the operations of the state programs.